

**Zebulon  
Joint Public Hearing  
Minutes  
August 27, 2012**

Present: Robert S. Matheny, Dale Beck, Curtis Strickland, Don Bumgarner, Roy Collins, Rick Hardin-Town Manager, Lisa Markland-Town Clerk, Mark Hetrick-Planning, Bo Dobrzanski, Julie Wilkins, Eric Vernon-Attorney

Planning Board Present: Wallace Jenkins, Kenny Waldroup, Ayden Carroll, Gloria Driver, Avon Privette, Darrell Jones, Larry Ray, Gene Blount

Absent: Beverly Clark

Mayor Matheny called the meeting to order at 7:00pm.

Mayor Matheny stated that Commissioner Clark had to work late with the Nash County Public Schools Transportation department and could not be at the meeting.

Lisa Markland swore in Gene Blount and Kenny Waldroup as members of the Planning Board.

Mayor Matheny explained that the meeting was a quasi-judicial hearing and that it was an evidentiary hearing. He continued by stating that anyone who wished to speak would have to be sworn in and the meeting would be run like a court hearing.

Mayor Matheny asked if any board member had discussions with or a conflict with or received any relevant evidence or exparte conversation that needed to be shared with everyone present. There were none.

Next, Mayor Matheny stated that if anyone on either board had a fixed opinion on the matter, any undisclosed exparte communication, close familiar business or other associational relationship with the applicant or any financial interest in the outcome of the decision would need to recues themselves and ask to be excused from participating in the decision making process.

Finally, no personal opinion could be considered when making a decision.

Gene Blount stated that he worked in the same shopping center as where the applicant would like to locate their business and wanted to make sure that was not an issue. Eric Vernon stated that as long as he did not have any financial interest either directly or indirectly he could sit. Gene stated he did not have any of that.

Gloria Driver stated that she was the president of the Wakelon Townhomes Homeowners Association and wanted to make sure that was not an issue since they were listed as an adjacent property owner. Eric Vernon stated that same thing as stated to Gene Blount as well as asked her if she had a fixed opinion on the matter and could not make an unbiased decision. Gloria stated she also did not have any direct or indirect financial interest in the application or a fixed opinion on the case.

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*SU 2013-01—Special Use Permit Request by Gregory Hotta of Fiesta Sweepstakes, LLC for the operation of an internet café*

Mayor Matheny declared the public hearing open and asked for staff report.

Lisa Markland swore in Bo Dobrzenski with the Zebulon Planning Department.

Bo Dobrzenski presented a PowerPoint presentation that Greg Hotta of Fiesta Sweepstakes was requesting the opportunity to open an internet café at 156 Wakelon Drive. They normally would offer internet time and could possibly redeem the prizes that were shown on the computer screen. Bo reviewed the requirements in the ordinance and the definitions of the ordinance.

The property was approximately 1600 square feet and was located 1100' from the front door of the middle school across the street.

The floor plan was reviewed as was the zoning map of where the business would be located.

Bo discussed findings of fact, motions and any conditions that the Board may want place on the applicant.

Mayor Matheny asked if there were any questions of staff.

Wallace Jenkins asked to look at the floor plan and the requirements under 152.1466 stating that there had to be a clear line of sight from the street. Mr. Jenkins asked where the windows were located on the suite. Bo explained that they were in the front of the store front.

Gloria Driver asked where the machines would be located and if they would be in the closed off rooms. Bo stated that applicant would be able to answer that question but he did not think they would be in the other rooms.

Larry Ray asked about the discrepancy in the square foot on the application and that shown on the floor plans. Bo Dobrzenski stated that he could not answer how Bailey and Associates marketed the suite. Mayor Matheny stated that some give the inside dimensions and some give the exterior dimensions and that could account for the discrepancy. He stated that was an issue between the landlord and the tenant.

Kenny Waldroup asked if there was a police report or staff investigation of similar locations and the impact that they may or may not have had in the community. Bo stated that they discussed the issue with the police department last week and said that according to the police department there were no calls specific to that use since they opened. The police department said that they had received calls to that shopping center but nothing that tied those to that business.

Commissioner Strickland asked what the other rooms in the back of the building would be used for. Bo stated he could not answer that question and the applicant could answer that.

Mayor Matheny asked if there was anyone who wished to speak in favor.

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Lisa Markland swore in Woody Webb with Edmisten & Webb Law Firm located at 127 W. Hargett Street, Suite 104 Raleigh NC.

Woody Webb stated that he was accompanied by Jim Hause and they represented Greg Hotta of Fiesta Sweepstakes. Mr. Webb said that Greg Hotta would be better to speak to the interior of the location than he would but he wanted to clarify a few things first. Woody Webb explained that no one under the age of 18 would be allowed in the café and all would be carded, all employees would be over the age of 18, the property was leased for three years and the business would comply with all state, federal and local laws.

Darrell Jones asked about the percentage of the business that would be faxes and what was sweepstakes. Mr. Webb stated he did not know but Mr. Hotta would be able to answer that.

Wallace Jenkins asked if they would be carding those that entered the premises. Mr. Webb stated that they would be under reasonable circumstances and explained that if they looked to be less than 18 years of age or even close to 18 they would be carded.

Gene Blount asked if someone wanted to come in with their child that was under 18 would that be allowed. Mr. Webb stated they would not be allowed in the parlor if they were under 18.

Commissioner Strickland asked if someone that was 15 or 16 years of age wanted to fax something would that be allowed. Woody Webb stated they would not be allowed in the premises.

Kenny Waldroup asked if there would be written procedures for the employees and training for them on how to identify those under age. Woody Webb stated that they would have to have a valid id or driver's license.

Gregory Hotta of 1337 Blue Pete Road Virginia Beach, VA was sworn in by Lisa Markland.

Greg Hotta stated that he would address the questions that were already asked first. Mr. Hotta explained that there were windows across the front and that would be unobstructed and the computer terminals will be in the front open space. The existing restroom would remain and the other rooms would be used for storage. The point of sale (POS) room would be where the employees would be exchanging with the customers.

There was a training manual and an operations guide for the business and it included a section on checking id's and he would supply one if needed.

Avon Privette asked about why it was listing 6.06 acres to be given a special use permit but it looked like it was only for a small area so there was some confusion on what was being requested. Bo Dobrzenski stated that the SUP would be for 156 Wakelon Street only. Avon asked why that wasn't what was shown on the map and the report instead of the entire site.

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Darrell Jones asked how many similar sites were owned in North Carolina and what percentage of the business would be faxing and what would be sweepstakes. Mr. Hotta stated that he would not be doing faxing in his businesses and the request before them would be the first in North Carolina and he owned five in Texas.

Wallace Jenkins asked where the computers would be located. Mr. Hotta said that all 20 would be in the large open room in the front of the facility.

Larry Ray asked about the POS room and if that would be for employees and customers. Greg Hotta explained that it would be for the employees and all exchange of money would occur back in that area. The room would be kept locked and there would be a safe in the room as well.

Larry Ray asked how many employees would be on a shift at any one time. Greg Hotta stated that there would normally be two employees per shift. Employees should be interacting with the customers at all times.

Ayden Carroll asked if all purchases were made in the POS room or could it be done at the computer. Mr. Hotta stated it could not be done at the computer.

Wallace Jenkins asked about the number of employees that would be working on a daily basis. Mr. Hotta stated with the hours suggested it would probably be four to five at a time. On Sunday since it was a short day it would be two, Monday-Thursday there would be two shifts of two and on Friday-Saturday there would probably be two shifts of two and maybe another person added to that.

Mayor Matheny asked if there was anyone who wished to speak in opposition. There were none.

Mayor Matheny asked if there was anyone who wished to speak in general. There were none.

Mayor Matheny declared the public hearing closed and referred the matter to the Planning Board for their recommendation.

Commissioner Bumgarner made a motion, second by Commissioner Collins to adjourn the meeting. There was no discussion but the motion passed unanimously.

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Date

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Robert S. Matheny—Mayor

SEAL

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Lisa M. Markland, CMC—Town Clerk