

## PLANNING STAFF REPORT

### Comprehensive Land Use Plan- Map Amendment

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#### SUMMARY:

**Hearing Date:** September 9, 2014- Planning Board  
October 20, 2014- Board of Commissioners

**Case Number:** 11221-CMA

**Applicant:** Oak Island Partners, LLC

**Property Owner:** Oak Island Partners, LLC

**Proposal:** Oak Island Partners, LLC, applicant and owner, is requesting an amendment to the 2010 Pender County Comprehensive Land Use Plan, Future Land Use Map. The requested amendment is to reclassify the subject property's Future Land Use Classification from Conservation to Rural Growth.

**Property Record Numbers, Acreage, and Location:** The subject properties are located approximately 5,000' north of US Highway 17, near the Pender/Onslow County border. There are nine (9) properties associated with the request and can be identified by PIN(s): 4227-51-3640-0000; 4227-42-3351-0000; 4227-33-2015-0000; 4227-43-0996-0000; 4227-18-2935-0000; 4217-57-5118-0000; 4218-71-9155-0000; 4218-73-1711-0000; 4217-73-4476-0000

**Comprehensive Plans and Policies Committee (CPPC) Consensus:** The Pender County CPPC **recommends approval of this request**; please see attachment 1.

**Staff Recommendation:** There are nine (9) tracts associated with this request totaling approximately ±3,429.01 acres. The properties are proposed to be converted from Conservation to Rural Growth as shown on the 2010 Comprehensive Plan Future Land Use Map. The Pender County Comprehensive Plans and Policies Committee (CPPC) recommends approval of this request, with the following stipulation: The boundary shall be realigned with the nearby Rural Growth to the southeast. The property between the proposal and the existing Rural Growth area is owned by the State of North Carolina and can be identified as PIN: 3297-65-0205-0000. Therefore, staff recommends approval as presented, as it would not be feasible to modify the Land Use Classification of an unrelated property owner at this time. This property appears to be covered primarily in wetlands and the Special Flood Hazard Area A.

Therefore, staff respectfully recommends that the request be approved as presented.

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#### **Description**

The subject request is a result of a Special Use Permit (SUP) conditioned approval granted on June 23, 2014 for a Sand Mining Operation. Specifically, the condition states, "7.Final Zoning shall not be issued until the applicant has successfully secured a Land Use Classification modification from Conservation to an appropriate Land Use Classification as determined by the Planning Board and Board of County Commissioners."

As outlined in the 2010 Comprehensive Plan; Policy 11A.1.4 any request to amend either the written text and/or the maps within the Plan shall follow the same process as a text or map amendment as described in the Unified Development Ordinance.

The applicant is requesting approval of an amendment to the 2010 Comprehensive Plan Future Land Use Map. The adoption of the 2010 Comprehensive Land Use Plan Future Land Use Map placed the subject property into the Conservation Land Use Classification. The proposed amendment would change nine (9) tracts totaling ±3,429.01 acres from Conservation to Rural Growth (Exhibit 1).

### **Zoning Classification**

The subject property is currently zoned RA, Rural Agricultural. Section 4.7.1 of The Pender County Unified Development Ordinance (UDO) currently defines the RA, Zoning District as a zoning district intended to accommodate non-residential agricultural uses and very low density residential development (minimum of 1 du/ac), as well as limited non-residential uses, in rural areas adjacent to agricultural operations. Development in this District should rely predominantly on individual wells and septic tank systems for domestic water supply and sewage disposal.

The zoning classification is currently consistent with in the Future Land Use Classification. According to the applicant's submittal, the property owner would like to proceed with capitalizing on the Special Use Permit (SUP) approval regarding a sand mining operation. The North Carolina General Statute § 153A-341 states:

*“Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.”*

The applicant is seeking a Comprehensive Plan Amendment, specifically requesting the Future Land Use Classification be changed from Conservation to Rural Growth.

### **Land Use Classification**

#### *Conservation*

Conservation areas are areas that are owned in fee simple or have protective easements. These areas represent areas of special significance and unique characteristics that make them worthy of preservation. Current conservation areas are typically owned by Federal or State agencies or private conservation groups and are often designated as Areas of Environmental Concern (AECs). Currently, conservation areas comprise approximately 131,393 acres (24.7%) of the land area within the Pender County zoning jurisdiction.

#### *Rural Growth*

The Rural Growth land use classification defines those areas of Pender County where urban services, i.e., public water and sewer services, are not expected to be extended within the planning horizon. Rural Growth areas are where preservation of agricultural operations is a primary concern and where conflicts between agricultural and non-agricultural uses are to be discouraged.

The Rural Growth Use Classification is described in the 2010 Comprehensive Land Use Plan as areas that are intended to protect agricultural and forestry operations that are a major part of the County's economic base and that are key to preservation of the County's rural landscape. Major job-creating activities that are compatible with farms, forestry and very low-density development are appropriate.

Development within Rural Growth areas should be limited to only those types of land uses and development intensities that can be accommodated by services typical in non-urban areas, e.g., private on-site water supply (or public water, as available) and on-site septic systems. Development with private package sewage treatment plants or premature extension of public sewer systems into these areas is discouraged. Public sewer should not be extended except to the extent necessary to protect public health when existing community wastewater systems fail or a pattern of failure of on-site systems occurs in a specific area.

Uses that would typically be allowed in Rural Growth areas include very low-density residential development (single-family site-built, modular, and manufactured homes) on one acre or greater size lots; agriculture, forestry, churches; very limited nonresidential uses - commercial, office, or public/institutional - meeting locational criteria. Locational criteria for non-residential uses in Rural Growth areas include frontage and access to a major State highway or secondary road, location at a major rural intersection, proximity to similar existing non-residential uses, and spatial separation from non-compatible uses such as existing residential development.

**Public Infrastructure:**

At this time, water and sewer services are not available to the subject property.

**Environmental Issues:**

A portion of the subject property is located within the Special Flood Hazard Area (SFHA) Zones A according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number(s) 3720422800K, Panel Number 3252, Map Number 3720422700K, Panel Number 3262, Map Number 3720420600J, Panel Number 4206, and Map Number 3720420800K, Panel Number 4208. Any development located within the SFHAs will be required to meet the meeting the prescribed standards as outlined in the Pender County Unified Development Ordinance Article 9, Flood Damage Prevention.

The subject property may have Areas of Environmental Concern (AECs), as designated by the Coastal Resources Commission under the authority of the Coastal Area Management Act (CAMA).

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**EVALULATION:**

- A. *Public Notifications:*** Public Notice of the proposal for map change has been advertised in the *Pender-Topsail Post and Voice*. Adjacent property owners have been given written notice of the request, and a public notification sign has been placed on the property.
- B. *Existing Zoning in Area:*** The existing zoning in the vicinity of the subject property consists of RA, Rural Agricultural within Pender County, while Onslow County borders the northern portion of the proposal.
- C. *Existing Land Use in Area:*** The existing land uses of the surrounding property consist of primarily vacant/undeveloped areas.

**D. 2010 Comprehensive Land Use Plan Compliance:** The 2010 Comprehensive Land Use Plan designates the subject property as Conservation.

**E. Unified Development Ordinance Compliance:** The Pender County Comprehensive Land Use Plan proposes all plan text or map amendments to follow Article 3.3.8 of the Unified Development Ordinance, which provides standards that shall be followed by the Planning Board before a favorable recommendation of approval can be made.

**3.3.8 Review Criteria for Rezoning**

*The Planning Board and Board of Commissioners shall consider the following matters in considering a rezoning request:*

- A. *Whether the range of uses permitted by the proposed change would be appropriate to the area concerned (including not being detrimental to the natural environment, not adversely affecting the health or safety of residents or workers in the area, not being detrimental to the use or development of adjacent property, and not materially or adversely affecting the character of the general neighborhood);*
- B. *Whether adequate public facilities/services (i.e., water, wastewater, roads) exist, are planned, or can be reasonably provided to serve the needs of any permitted uses likely to be constructed as a result of such change;*
- C. *Whether the proposed change is consistent with the County's Comprehensive Land Use Plan and CAMA Land Use Plan or any other adopted land use document.*
- D. *Whether the proposed amendment is reasonable as it relates to the public interest.*

**G. Summary & Staff Recommendation:** This proposal consists of changing nine (9) tracts totaling ±3,429.01 acres from Conservation to Rural Growth as shown on the 2010 Comprehensive Plan Future Land Use Map. The Pender County Comprehensive Plans and Policies Committee (CPPC) recommend approval of this request; therefore, staff respectfully recommends that the request be approved as presented. The Pender County Planning Board is recommending approval of this request.

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**VOTING AND RESOLUTION:**

Motion: \_\_\_\_\_ Seconded \_\_\_\_\_

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_ Unanimous: \_\_\_\_\_

Williams: \_\_ Marshburn: \_\_ Baker: \_\_ Boney: \_\_ Edens: \_\_ McClammy: \_\_ Nalee: \_\_\_\_\_

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**Comprehensive Plans and Policies Committee (CPPC) Comments:**

**Comment 1**

Excerpt from the CPPC:

“In the future, the Conservation land use classification may be applied to areas along major streams and rivers and immediately adjacent to existing conservation areas.”

My initial thoughts were to provide and 200’ fringe conservation protection zone where the mining tract adjoins a conservation area but that only occurs at one errant location. And that location is not supported by topo/wetlands/soils overlays so I have no problem with the re-designation. However rather than creating a “hole” in the conservation area it would make more sense to re-align that portion of the districts perimeter boundary. (my opinion)

Staff Commentary: The intermediate parcel joining the proposal to existing Rural Growth Classifications is owned by the State of North Carolina in separate ownership.

**Comment 2**

I agree with Margaret but am concerned about damage that could be caused by the mining operation. Anyway to mitigate that might be good.

**Comment 3**

Soil & Water sees no problem with this request.

The property does have the water line, but PCU has not confirmed or planned to extend the line.

Pluris has a SUP proposed, not confirmed, and it is subject to a commissioner vote. We do not know if that will be approved or not.