

**PLANNING STAFF REPORT
CONDITIONAL ZONING MAP AMENDMENT**

SUMMARY:

Hearing Date: April 5, 2016 Planning Board
May 16, 2016 Board of Commissioners
Applicant: Charlotte P. Kelly
Property Owner: Charlotte P. Kelly
Case Number: CZMA 160-2016

Rezoning Proposal: Charlotte P. Kelly, applicant and owner, is requesting a conditional zoning map amendment for one (1) tract totaling approximately 0.47 acres from RP, Residential Performance zoning district to RA-CD 2, Rural Agricultural zoning district. The request is to allow only the following NAICS uses: 453 Miscellaneous Store Retailers, 7222 Limited Service Eating Places and 445 Food and Beverage Stores.

Property Record Number, Acreage, and Location: The subject property, located at 5230 Point Caswell Road, recorded on Register of Deeds Book 403 Page 528, is located near the intersection of Point Caswell Road (SR 1128) and Rooks Road (SR 1126) in the Caswell Township and may be further identified by Pender County PIN: 2257-66-1048-0000.

RECOMMENDATION

The application is for a conditional zoning map amendment of one (1) tract totaling approximately 0.47 acres from RP, Residential Performance zoning district to RA, Rural Agricultural zoning district. As submitted, the request complies with all criteria set forth in Section 3.4 Review Criteria for Conditional Rezoning of the Pender County Unified Development Ordinance and is consistent with three (3) goals and four (4) policies of the 2010 Comprehensive Land Use Plan. There are no known conflicts with any adopted plans. At their March 1, 2016 meeting the Pender County TRC had no objections to this request.

HISTORY

The subject property was designated as R-20 prior to the county-wide comprehensive rezoning in 2010. With the adoption of the 2010 Pender County Unified Development Ordinance, the designation of the subject property was changed to RP, Residential Performance zoning district.

DESCRIPTION

Charlotte P. Kelly, applicant and landowner is requesting approval of a Zoning Map Amendment for a conditional rezoning of an approximately 0.47 acre tract from RP, Residential Performance zoning district to RA, Rural Agricultural zoning district. The subject property, recorded on Register of Deeds Book 403 Page 528, is located near the intersection of Point Caswell Road (SR 1128) and Rooks Road (SR 1126) in the Caswell Township.

According to the applicant, this property has been operated as a variety of stores from the 1940s through the early 2000s. The store however became vacant between tenants and was not eligible to be re-opened due to the loss of Nonconforming Use Status.

Section 10.3.4 A of the Pender County Unified Development Ordinance states that when a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, or greater than one hundred eighty

days (180) with good cause shown, the property involved may thereafter be used only for conforming purposes. The commercial activities allowed in this district are not a fit with the uses the owner's intend to use moving forward.

The existing structures located on the subject properties are considered an existing non-conformity with respect to current zoning regulations. According to Section 10.3 of the Pender County Unified Development Ordinance; A nonconforming use is a principal or accessory land use, other than a nonconforming sign, that was lawfully established in accordance with zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which it is now located.

The minimum acreage to rezone to RA, Rural Agricultural zoning district is typically an acre, however footnote three in the dimensional standards table in Section 4.14 indicates that any parcel of property meeting the guidelines set forth in Sections 3.3 or 3.4 that adjoins an established zoning district that is identical to the district that is applying for a rezoning shall not have to meet the minimum area requirements for rezoning for that district. In this case all of the parcels to the west are zoned RA Rural Agricultural. This is in compliance with Appendix A, Definitions.

Photo



Access

The property has direct access to Point Caswell Road (SR 1128) on the west side of the lot. Any improvements to the existing driveway may require an NCDOT permit. The TRC comments submitted by the WMPO state that a new driveway apron must be installed onsite. He also stated that a handicap parking space is required, as well as trip estimates for any proposed use. There were no comments from NCDOT on the proposed conditional zoning map amendment.

Utilities

According to the applicant the property is served by a well and a septic tank. Any final zoning approvals are contingent upon review and approval by the Environmental Health Department.

Environmental Concerns

According to FEMA Flood Insurance Rate Map Number 3720331300J, adopted February 16, 2007, the property is not located within any Special Flood Hazard Area (SFHA).

All applicable federal, state and local agency permits are required prior to the issuance of final zoning.

Technical Review Committee

On March 1, 2016 the Pender County Technical Review Committee reviewed the Applicant's submittal; the responses are included as Attachment 1.

Public Input Meeting

On February 22, 2016 the Applicant held a community meeting in accordance with Section 3.4.3 of the Pender County Unified Development Ordinance. Two citizens participated and on February 22, 2016 both adjoining landowners submitted emails to the applicant that they did not object to this conditional zoning map amendment.

EVALUATION

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 parcel currently has three structures on it. There is a building that has previously been used as store and two accessory buildings. The existing zoning is RP, Residential Performance zoning district.

C) Existing Land Use in Area: The properties to the north, south and east are currently classified as RP, Residential Performance zoning district. The parcels to the west are classified as RA, Rural Agricultural zoning district. The surrounding properties are composed of low density residential development, if developed at all.

D) 2010 Comprehensive Land Use Plan: The 2010 Comprehensive Land Use Plan designates the subject property as both Suburban Growth and Rural Growth. The Suburban Growth land use classification identifies those areas of Pender County where significant residential growth is expected to occur within the planning horizon. Areas designated as Suburban Growth are located primarily adjacent to municipal planning jurisdictions and within or near high growth, un-incorporated areas of the County. Suburban Growth designates areas where public water and public sewer are available or are planned in the near future. Uses that would typically be allowed in Suburban Growth areas include medium-high density residential (single-family site-built and modular homes); limited non-residential uses (commercial, office, or public/institutional) that meet locational criteria. Locational criteria for non-residential uses include frontage and access to a major State highway or secondary road, location at a major intersection, proximity to similar uses, and spatial separation from non-compatible uses such as existing residential development

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 proposed conditional use rezoning is in harmony with this classification.

This Conditional Rezoning is consistent with three (3) goals and four (4) policies of the 2010 Comprehensive Land Use Plan. The following goals and policies within this plan may be relevant to support the proposed Conditional Zoning map amendment;

Goal 1A.1: Manage the physical growth and development of Pender County by promoting more intensive land uses in key locations identified for such growth while preserving and protecting the unique physical character and social assets of the predominant rural lifestyle and coastal environment that makes the County a unique place to live.

Policy 1A.1.5: The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

Policy 1A.1.6 Use conditional zoning process to enable developers to contribute to addressing the impact of developments on capital facilities and other resources; incorporate regulations into new Unified Development Ordinance to enable a small project to address specific impacts to an existing adjacent community.

Goal 3A.1 Develop a preferred growth pattern that includes traditional suburban communities but also allows for higher density residential development and for innovative mixed-use developments to encourage more compact, sustainable growth patterns.

Policy 3A.1.4 Consistently use the Comprehensive Land Use Plan, as well as other plans and studies, to determine if a rezoning request is appropriate and consistent with local policies.

Goal 10A.1 Promote economic development which meets the needs of the County for expanding the non-residential tax base and providing well-paying jobs

Policy 10A.1.2 Commit County resources to improve and expand efforts to retain and recruit industries. Place emphasis on re-use of vacant buildings, recruitment of clean industries, and creation of jobs. (Clean industries are generally defined as sustainable businesses that participate in environmentally-friendly activities to ensure that all processes, products, and manufacturing activities adequately address environmental concerns.)

E) Unified Development Ordinance Compliance: Article 3.4.4 of the Unified Development Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for a conditional rezoning can be made.

This is a Conditional Zoning map amendment meaning the uses approved will be the only uses allowed on this property if it is approved. The applicant is requesting the following uses be allowed: 453 Miscellaneous Store Retailers, 7222 Limited Service Eating Place and 445 Food & Beverage Stores. A conditional district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or special use, on small and large scale projects.

According to Section 4.7.1 of the Pender County Unified Development Ordinance, the RA, Rural Agricultural zoning district is 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.

3.448 Review Criteria for Conditional Rezoning

When evaluating an application for the creation of a conditional zoning district, the Planning Board and Board of Commissioners shall consider the following:

- A. *The application's consistency to the general policies and objectives of all adopted Land Use Plans and the Unified Development Ordinance;*
- B. *The potential impacts and/or benefits on the surrounding area, adjoining properties;*
- C. *The report of results from the public input meeting.*

RECOMMENDATION

The application consists of a conditional zoning map amendment request for approximately 0.47 acres currently zoned RP, Residential Performance zoning district to RA, Rural Agricultural zoning district (Conditional). As submitted, the request complies with all criteria set forth in Section 3.4 of the Pender County Unified Development Ordinance and is consistent with three (3) goals and four (4) policies of the 2010 Comprehensive Land Use Plan. The request does not conflict with any existing policies, land uses, or zoning classifications. The Administrator respectfully recommends approval of the conditional rezoning request.

BOARD ACTION FOR CONTIDTIONAL REZONING REQUEST

Motion: _____ Seconded: _____

Approved: _____ Denied: _____ Unanimous: _____

Williams: __ Fullerton: _ Baker: __ Edens: __ McClammy: __ Nalee: __