

**PLANNING STAFF REPORT  
ZONING MAP AMENDMENT**

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**SUMMARY:**

**Hearing Date:** June 7, 2016 Planning Board  
July 5, 2016 Board of Commissioners  
**Applicant:** Coleman Parks  
**Property Owner:** Beach Front Properties  
**Case Number:** ZMA 226-2016

**Rezoning Proposal:** Coleman Parks, applicant, on behalf of Beach Front Properties, owner, is requesting approval of a Zoning Map Amendment of one (1) tract totaling approximately 219.5 acres from the RA, Rural Agricultural zoning district to the RP, Residential Performance zoning district.

**Property Record Number, Acreage, and Location:** The subject property is located to the northwest of Island Creek Road (SR 1002) approximately seven tenths of a mile ( $\pm 0.7$  miles) to the southwest of the intersection of NC HWY 210 and Island Creek Road (SR 1002) in the Topsail Township and may be further identified by Pender County PIN: 3263-73-0614-0000.

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**RECOMMENDATION**

The application is for a zoning map amendment of one (1) tract totaling approximately 219.5 acres from RA, Rural Agricultural zoning district to RP, Residential Performance zoning district. As submitted, the request complies with all but one of the criteria set forth in Section 3.3 Review Criteria for Rezoning of the Pender County Unified Development Ordinance and is consistent with one (1) goal and two (2) policies of the 2010 Comprehensive Land Use Plan. The portion of the Unified Development Ordinance this request is inconsistent with is 3.3.1 (E) which states that the request must show substantial compliance with the goals and policies of the Comprehensive Land Use Plan. Because the Future Land Use map has this parcel designated partially as Rural Growth, the request is not fully consistent. Due to available access to water service, however, the property identifies more closely with the Suburban Growth future land use designation. For this reason the Administrator respectfully recommends approval despite the conflict with the Future Land Use Map.

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**HISTORY**

The designation of the subject property is RA, Rural Agricultural zoning district. The property is currently undeveloped.

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**DESCRIPTION**

Coleman Parks, applicant, on behalf of Beach Front Properties, owner, is requesting approval of a Zoning Map Amendment of one (1) tract totaling approximately 219.5 acres from the RA, Rural Agricultural zoning district to the RP, Residential Performance zoning district. The subject property is located to the northwest of Island Creek Road (SR 1002) approximately seven tenths of a mile ( $\pm 0.7$  miles) to the southwest of the intersection of NC HWY 210 and Island Creek Road in the Topsail Township. The easement referred to as W.O. Johnston Blvd. is directly to the east of the property.

The minimum acreage to rezone to RP, Residential Performance zoning district is five (5) acres according to Section 4.14 of the Pender County Unified Development Ordinance. This request is in compliance as there are approximately 219.5 acres requested for the Zoning Map Amendment.

### **Access**

The property has approximately 950 feet of direct access to Island Creek Road (SR 1002). There is currently no site access on the subject property and any improvements or driveway permit is subject to review and approval by NCDOT at the time of a development application. W.O. Johnston Avenue is located on the eastern side of this property. This is a private road.

### **Utilities**

Public water is available at the subject property through Pender County Utilities, however no public wastewater service is available. Any final zoning approvals are contingent upon review and approval by Pender County Utilities and the Environmental Health Department.

### **Environmental Concerns**

There are no Areas of Environmental Concern (AEC) located on the property. There appears to be wetlands located on the property. This is subject to review and approval of the Army Corps of Engineers.

There are Special Flood Hazard Areas (SFHA) on the northern portion of the parcel according to FEMA Flood Insurance Rate Map Number 3720321400J, adopted February 16, 2007. In the DFIRMS preliminary maps released in August 2014, the northern portion of the property continues to be designated in a SFHA. Any development will require compliance with the Flood Damage Prevention Ordinance prior to building permit issuance.

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

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### **EVALUATION**

**A) Public Notifications:** Public Notice of the proposal for a 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 on the subject parcel is RA, Rural Agricultural zoning district. Directly adjacent to this property to the north and east is zoned RP, Residential Performance zoning district. All properties to the south and west are zoned RA, Rural Agricultural zoning district. Across Island Creek Road (SR 1002) to the southwest there is one parcel zoned PD, Planned Development zoning district.

**C) Existing Land Use in Area:** The parcel is currently undeveloped. The Cross Creek Subdivision is to the east of the subject property, which makes a good argument to support the requested zoning map amendment. There is no development to the north, south or west of the property at this time.

**D) 2010 Comprehensive Land Use Plan:** The 2010 Comprehensive Land Use Plan designates the subject property as 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. Uses that would typically be allowed in Rural Growth areas include low density residential, low impact commercial, civic and agricultural uses.

This General Use Rezoning is consistent with one (1) goal and two (2) policies of the 2010 Comprehensive Land Use Plan and conflicts with Section 3.3.8 C of the Unified Development Ordinance. This conflict is only between the portions of the Future Land Use Map showing the property as Rural Growth, which is not compatible with the RP, Residential Performance zoning district.

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.1.1** Encourage development in and around municipal corporate limits and other developed areas within the County to yield a more compact pattern of development that will reduce suburban/rural sprawl.

**Policy 1A.1.2** Encourage development in areas where the necessary infrastructure – roads, water, sewer, and schools - are available, planned or can be most cost effectively provided and extended to serve existing and future development.

**E) Unified Development Ordinance Compliance:** Article 3.3 of the Unified Development Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for a rezoning 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.

The request is partially inconsistent with the criteria for general use rezonings outlined in UDO Section 3.3.1 (E). This requirement states that a rezoning application must show substantial compliance with the goals and policies of the Comprehensive Land Use Plan. It should be noted that there is a conflict with this request in the Pender County Comprehensive Land Use Plan regarding the Future Land Use designation for the tract because

it is partially designated Suburban Growth and partially designated Rural Growth (The parcel has two designations).

There are no conflicts with the proposed map amendment under the Suburban Growth designation, however the Rural Growth future land use designation is inconsistent with the RP, Residential Performance zoning district. 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. This description conflicts with the definition of the Residential Performance zoning district in the Unified Development Ordinance, which is intended to allow a variety of residential uses and densities and also limited commercial activities as well as agritourism. Existing or new agricultural and farm uses shall be allowed on undeveloped land prior to development.

**RECOMMENDATION**

The application consists of a zoning map amendment request for approximately 219.5 acres from RA, Rural Agricultural zoning district to RP, Residential Performance zoning district. As submitted, the request complies with all but one of the criteria set forth in Section 3.3.8 of the Pender County Unified Development Ordinance and is consistent with one (1) goal and two (2) policies of the 2010 Comprehensive Land Use Plan. The request conflicts with Section 3.3.8 C of the Unified Development Ordinance due to the definition of the proposed RP, Residential Performance zoning district and the definition of the Rural Growth portion of the future land use classification. Staff is favorably recommending this zoning map amendment, recognizing that it is an appropriate time for a comprehensive update to the Future Land Use Map and Comprehensive Land Use Plan.

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**BOARD ACTION FOR CONTIDTIONAL REZONING REQUEST**

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

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

Williams: \_\_\_ Fullerton: \_\_\_ Baker: \_\_\_ Carter: \_\_\_\_\_ Edens: \_\_\_ McClammy: \_\_\_ Nalee: \_\_\_