

**PLANNING STAFF REPORT  
ZONING MAP AMENDMENT**

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**SUMMARY:**

**Hearing Date:** September 7, 2016 Planning Board  
October 17, 2016 Board of Commissioners  
**Applicant:** Creative Commercial Properties  
**Property Owner:** P.H. LANCO, Inc.  
**Case Number:** ZMA 324-2016

**Rezoning Proposal:** Creative Commercial Properties, applicant, on behalf of P.H. LANCO, Inc. owner, is requesting the approval of a Zoning Map Amendment for one (1) tract approximately 8.42 acres from the PD, Planned Development zoning district to the GB, General Business zoning district.

**Property Record Number, Acreage, and Location:** The subject property is located along the west side of US HWY 17 and to the south of Pinnacle Parkway (private), directly northwest of the US HWY 17 intersection with Champion Drive (private) in the Topsail Township and may be further identified by Pender County PIN: 4204-65-5211-0000.

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**RECOMMENDATION**

The application is for a zoning map amendment of one (1) tract totaling approximately 8.42 acres from PD, Planned Development zoning district to GB, General Business 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. 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. The Future Land Use Map in the 2010 Comprehensive Land Use Plan has this parcel designated as Rural Growth. General Business is not compatible with Rural Growth due to its definition. It is notable that a request for an amendment to this plan to reclassify the property to Mixed Use land use designation is pending in conjunction with this request for rezoning.

There are no other known conflicts with any adopted plans. If an amendment to the 2010 Comprehensive Land Use Plan is approved designating the Future Land Use designation to Mixed Use, Staff will support the request for this rezoning, due to the fact that the Mixed Use land use designation supports the expansion of water and sewer, and land uses associated with the GB, General Business zoning district.

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**HISTORY**

The property is wooded, vacant and undeveloped. This parcel is recorded in Map Book 633, Page 186. The parcel is a result from a subdivision north of it called The Pinnacle. Proof of legal access to Pinnacle Parkway has been included as attachment one.

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**DESCRIPTION**

Creative Commercial Properties, applicant, on behalf of P.H. LANCO, Inc., owner, is requesting approval of a Zoning Map Amendment of one (1) tract totaling approximately 8.42 acres from the PD, Planned Development zoning district to the GB, General Business zoning district. The subject property is located along the west side

of US HWY 17 and to the south of Pinnacle Parkway (private), directly northwest of the US HWY 17 intersection with Champion Drive (private) in the Topsail Township.

The minimum acreage to rezone to GB, General Business zoning district is one (1) acre according to Section 4.14 of the Pender County Unified Development Ordinance. This request is in compliance in this regard, as there are approximately 8.42 acres requested for this general use rezoning.

#### **Access**

The property has direct access from US HWY 17 and from Pinnacle Parkway (private). Any improvements are subject to approval from NCDOT. Proof of legal rights to access from Pinnacle Parkway have been provided as Attachment One. Staff has requested that NCDOT studies the median in this area.

#### **Utilities**

According to the GIS records it is in the Rocky Top Water and Sewer District and there is access to water through Pender County Utilities. Any final zoning approvals are contingent upon review and approval by Pender County Utilities. There is access to wastewater provided by Pluris of Hampstead LLC, although no intent to serve letter has been provided. Any changes or approvals will be evaluated at the time of site development.

#### **Environmental Concerns**

A portion of this property does appear to be in the A Flood Zone as demonstrated on the effective Flood Insurance Map #3720421500J (FIRM) dated February 16, 2007. In preliminary flood maps released last year, the parcel appears to be in both A and AE flood zones. All development must be done in accordance with the Pender County Flood Damage Prevention Ordinance.

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

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#### **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 existing zoning on the subject parcel is PD, Planned Development zoning district. All other adjacent properties are also zoned PD, Planned Development zoning district, with the exception of one parcel across US HWY 17 to the east zoned O&I, Office and Institutional zoning district.

**C) Existing Land Use in Area:** The parcel is currently undeveloped. There is a Dollar General Retail store to the north. The property to the southwest is wooded and undeveloped. The property to the northeast is the Pinnacle Ridge residential subdivision. The property to the south is vacant and undeveloped. The property is across from Pender EMS and Fire.

**D) 2010 Comprehensive Land Use Plan:** The 2010 Comprehensive Land Use Plan designates the subject property as 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 parcel has a pending request to be changed to Mixed Use. The Mixed Use land use classification designates locations where a mixture of higher density/intensity uses is to be encouraged. Mixed Use areas should be characterized by physically and aesthetically unified developments containing a mixture of commercial, office, institutional, and high- and medium-density residential uses, arranged in a walkable, compact, and pedestrian and transit friendly manner. Mixed Use areas are intended to help reduce sprawl by concentrating a mix of uses in convenient locations; by promoting an efficient sustainable pattern of land uses, and by providing most of

the goods and services needed by residents in a coordinated, concentrated manner. Mixed Use areas are intended to reduce the number and length of auto trips by placing higher-density housing close to shopping and employment center. They also should function to improve the quality of life for residents living in higher density housing by placing daily conveniences, shops, and employment within walking distance

**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 and in the public interest.

This General Use Rezoning is inconsistent with the 2010 Comprehensive Land Use Plan because there are conflicts between the requested new zoning designation of GB, General Business, and the Rural Growth Future Land Use designation.

The 2010 Comprehensive Land Use Plan describes Rural Growth: Rural Growth areas 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. Areas designated as Rural Growth are located primarily in the western portion of the County with other Rural Growth areas designated surrounding the Holly Shelter Game Land and Angola Bay Game Land in eastern Pender County. Agricultural/farming operations and very low residential development intensities.

In Section 4.9.1 The Unified Development Ordinance describes General Business zoning district in the following way: This district is primarily intended to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses.

The parcel is located on US HWY 17 and is located directly adjacent to a parcel approved to be used for a business use. This parcel meets the criteria for water, sewer and proximity to a major highway for the rezoning to warrant consideration.

Policy 3A.1.4 of the 2010 Land Use Plan states the County must consistently use the 2010 Comprehensive Land Use Plan to determine if a rezoning request is appropriate and consistent with local policies. The plan should be used as a guide in developing and approving land development proposals and for setting capital improvement plans and priorities. Effective January 1, 2006, the State of North Carolina amended planning statutes to strengthen the role of adopted plans in the consideration of zoning amendments. A statement from the planning board that the proposed amendment is inconsistent with a plan; however, does not preclude the governing board from adopting the amendment. The board decision does not have to be consistent with the comprehensive plan, but any inconsistency must be identified and explained. The comprehensive plan recommends that if a proposed zoning amendment is not in compliance with the plan, that a plan amendment be submitted and considered prior to or concurrent with consideration of the rezoning request

**RECOMMENDATION**

The application consists of a zoning map amendment request for approximately 8.42 acres from PD, Planned Development zoning district to GB, General Business zoning district. Because the 2010 Comprehensive Land Use Plan recommends that if a proposed zoning amendment is not in compliance with the plan, that a plan amendment be submitted and considered prior to or concurrent with consideration of the rezoning request, the Administrator respectfully requests that the Planning Board consider taking this action. If an amendment to 2010 Comprehensive Plan Future Land Use Map is made to make the parcel designation Mixed Use, staff will recommend this rezoning request.

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**BOARD ACTION FOR CONTIDIONAL REZONING REQUEST**

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

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

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