

# REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

Tracking Number: 15.

**Date of Request:** October 1, 2007

**Date Request Received:** October 1, 2007

**Board Meeting Date Requested:** October 15, 2007

**Board Meeting Date Assigned:** October 15, 2007

**Short Title:** All Carolina Crane & Equipment, LLC, Applicant Is Proposing A Text Amendment To The Pender County Zoning Ordinance, To Allow Storage Of Merchandise, Materials Or Equipment On Site Outside An Enclosed Building, Excluding Salvage As A Permitted Use In The RT, Rural Transitional District, Requiring A Special Use Permit.

**Request Status:**

- Request is proceeding to Board of Commissioners
- More information is needed – see attached
- Request on hold – no further information needed
- Other:

**Background:** The applicant, All Carolina Crane & Equipment, LLC is requesting a text amendment to Pender County Zoning Ordinance.

*(Administrative Use Only)*

**Specific Action Requested:** The Board of Commissioners is requested to hold a public hearing to allow storage of merchandise, materials or equipment on site outside an enclosed building, excluding salvage as a permitted use in the RT, Rural Transitional District, requiring a Special Use Permit.

**CONTRACT TYPE**

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
  - Federal Grantor
  - State Grantor
  - Grant or
- County as Grantor
  - County Funds
  - Other Funds:
- Revision
- For Equipment

Requested by: Planning Staff  
Department: Planning Department  
Title: Planning  
Contact Phone: 910.259.1202  
Contact Fax: 910.259.3735

**PURCHASING** Budgeted Item:  Yes  No  
Date Rec'd:  Reviewed and Approved  
 Comments on Reverse

Date Sent: Signed:

**ATTORNEY**  Reviewed and Approved  
Date Rec'd:  Legal Problem(s)  
 Comments on Reverse

Date Sent: Signed:

**FINANCE** Sufficient Funds  Available  
Date Rec'd:  Not Available  
 Budget Amendment Necessary  
 Budgeted Amendment is Attached  
 Comments on Reverse

Date Sent: Signed:

**CLERK** Signature(s) Required:  
 Board Chairman/County Manager  
 Other:

Date Rec'd Approved by Board:  Yes  No  
At meeting on

INTRODUCED BY: Planning Staff      DATE: October 15, 2007      ITEM NO: \_\_\_\_\_

**Pender County Zoning Ordinance Text Amendment**  
**Section 8.9, Services – *Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage***

**SUBJECT:** Zoning Ordinance Text Amendment

**ACTION REQUESTED:** Consider a Text Amendment to the Zoning Ordinance to allow Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage as a Permitted Use in the RT, Rural Transitional District, requiring a Special Use Permit.

**HISTORY/BACKGROUND:**

**Description of Request:** The request consists of amending the current Pender County Zoning Ordinance Table of Permitted Uses, Section 8.9, to allow Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage as a Permitted Use with a Special Use Permit in the RT, Rural Transitional District (*see attached applicant's application & description of request*).

**History/Background Relating to Proposed Amendment:** The Zoning Ordinance currently does not permit Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage by Special Use Permit.

**EVALUATION:**

**A) Public Notifications:** Public Notice of the request for text change has been advertised in Pender Post and Topsail Voice.

**B) Planning Staff Recommendation to Planning Board:** After further review, the planning staff would like to possibly add this use under special provisions (Section 15.5, Pender County Zoning Ordinance). Staff is presenting this to the Planning Board for possible input on conditions set for this request: Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building, Excluding Salvage permitted by Special Use in an RT, Rural Transitional District.

By definition the RT Rural Transition District is established as a district in which the principal use of land is primarily for moderate density single-family residential and moderate intensity commercial activities. Existing development in this district typically exhibits characteristics of a transition to a mixed, higher density development. The regulations of the district are to permit controlled commercial activities, of a non-objectionable, non-hazardous nature to surrounding neighborhoods. This district may have the potential to receive limited community services in the future.

In order to protect the residential uses in this district possible specific provisions concerning this use maybe be needed. Examples are opaque fencing between uses, limiting hours of operation, lighting and site safety (security gates).

**PLANNING BOARD RECOMMENDATION:** On October 2, 2007 the Pender County Planning Board voted unanimously to approve a text amendment to the Zoning Ordinance and Table of Permitted Uses with changes and additions highlighted, italicized and in bold print.

**AMENDMENTS:**

**RESOLUTION: NOW, THEREFORE, BE IT RESOLVED**, that on October 15, 2007, the Pender County Board of Commissioners (approved, denied, modified) a text amendment to the Pender County Zoning Ordinance (section 8.9 table of permitted used), as described herein and F.D. Rivenbark, Chairman to the Board, is authorized to execute the order implementing this resolution and provide notice to the applicant of the action taken herein.

**AMENDMENTS:**

**MOVED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**APPROVED** \_\_\_\_\_ **DENIED** \_\_\_\_\_ **UNANIMOUS** \_\_\_\_\_

**YEA VOTES:** Rivenbark \_\_\_\_\_ Blanchard \_\_\_\_\_ Brown \_\_\_\_\_ Tate \_\_\_\_\_ Williams \_\_\_\_\_

\_\_\_\_\_  
**F.D. Rivenbark,  
Chairman**

10-15-2007  
**Date**

\_\_\_\_\_  
**ATTEST**

10-15-2007  
**DATE**

SECT. 8 TABLE OF PERMITTED USES

PERMITTED USES	PD	R-20C	R-20	R-15	R-10	B-1	B-2	B-3	I-1	I-2	A	RI	RA	FA	WS All
<b>RESIDENTIAL</b>															
Motion Picture Production Facilities, Excluding Adult Entertainment (Permanent Structures Only Require Zoning Permits)	SP B						P	S	S	S	S		S		
Salvage Yards, Junkyards, Scrap Processing									S	S			S		
Outdoor Advertising (See Sign Regulations)	P					P	P	P	P	P		P	P	P	
<b>OTHER USES (Con't)</b>															
Research Facilities	P						P	P	P	P	P	S	S		
Private Pier (5 slips or less) (See ZI 35)	P	P	P	P	P	P	P	P				P	P	P	P
Sludge Disposal (Land Application)									S	S	S	S	S		
Storage of Merchandise, Materials or Equipment Inside An Enclosed Building, Excluding Salvage						P	P	P	P	P		S	S		
Storage of Merchandise, Materials or Equipment On-Site Outside An Enclosed Building, Excluding Salvage							S		S	S		S	S		
Temporary Sign (See Sign Regulations)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Temporary Modular/Mobile Offices (See Section 11.1A)	P					P	P	P	P	P	P	P	P	P	
Temporary Building for Construction & Development (See Section 11.1D)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Temporary Events (See Section 11.1E)						P	P	P	P	P		P	P	P	
Transfer Station/Convenience Center	P		S	S	S	S	S	S	P	P		S	S		

# Pender County Planning Department

805 South Walker Street  
Burgaw, North Carolina 28425

Phone (910) 259-1202  
Fax (910) 259-1295  
Email: planning1@pender-county.com

## PLANNING BOARD APPLICATION FOR ZONING TEXT AMENDMENT

Date <u>9/20/07</u>	Application Fee <u>200.00</u>	Receipt No. <u>072243</u>
Application No. <u>0</u>	Postage Fee <u>0</u>	Receipt No. <u>—</u>

### I. TEXT AMENDMENT INFORMATION

**Text to be Amended or Reviewed (please refer to necessary section of Pender County Zoning Ordinance):**

Section 8.9, Permitted Uses, Other Uses, Storage of Merchandise, etc.  
Outside An Enclosed Building

**Proposed Amendment:**

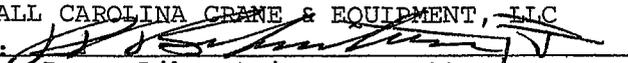
Text Amendment to Section 8.9 by amending the table of permitted uses for  
the RT zoning district to permit "Storage of Merchandise, Materials or  
Equipment On Site Outside An Enclosed Building, Excluding Salvage."

**Reason for Amendment:**

To allow storage of unlicensed equipment in RT by special use permit,  
the same as allowed in RA.

### II. APPLICANT INFORMATION:

Applicant All Carolina Crane & Equipment, LLC Address 102 S. Walker Street,  
Phone 910-259-2175 Fax 910-259-6823 P. O. Box 428  
Email rick@bibnunlaw.com Burgaw, NC 28425

ALL CAROLINA CRANE & EQUIPMENT, LLC  
III. SIGNATURE OF APPLICANT: By:   
R. v. Biberstein, Jr., Attorney

**BIBERSTEIN & NUNALEE, L.L.P.**  
Attorneys at Law  
102 South Walker Street  
P.O. Box 428  
Burgaw, North Carolina 28425-0428  
Telephone: 910-259-2175; Facsimile: 910-259-6823  
E-mail: rick@bibnunlaw.com

Richard von Biberstein, Jr.  
(rick@bibnunlaw.com)  
Mark I. Nunalee ♦  
♦Certified Public Accountant  
(mark@bibnunlaw.com)

20 September 2007

**HAMPSTEAD OFFICE**  
16191 U.S. Highway 17 N  
Hampstead, NC 28443  
Telephone No. 910-270-4347  
\*\*\*\*Mailing Address:  
P. O. Box 428  
Burgaw, N. C. 28425

Pender County Planning Dept.  
805 S. Walker Street  
Burgaw, NC 28425

Re: Text Amendment to Section 8.9, Permitted Uses

Gentlemen:

Enclosed is an application for a zoning text amendment together with our check for \$200.

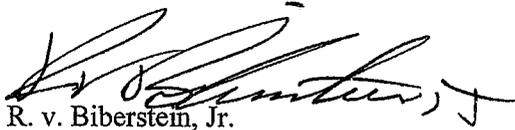
This text amendment is being requested in order to allow in RT the same that is allowed in RA, that is, Storage of Merchandise, Materials or Equipment On Site Outside An Enclosed Building. This specifically is needed for the Rocky Point Business Park on the south side of Strawberry Lane where the current buildings do store equipment and merchandise and materials outside a building and where a new company is replacing an existing company which did that. The new company needs to do essentially the what the old company did. The existing companies obtained special use permits when the property was zoned RA, but it was rezoned RT within the last couple of years, apparently without realizing that it was making the existing companies into non-conforming uses.

Some may contend that the existing companies comply with RT, but there is some ambiguity and a question has been raised, and the new company as well as the existing companies would prefer not to have any ambiguity at all.

If you need further information, or have any questions, please advise.

With best wishes, I am

Cordially yours,

  
R. v. Biberstein, Jr.

RvB,jr:tb  
Enc: Check #12467

pc: Mr. Dan Gold (email)

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