



REQUEST FOR BOARD ACTION

ITEM NO. 19.

DATE OF REQUEST: March 9, 2009

REQUESTED BY: Staff, Planning and Community Development Department

SHORT TITLE: Enoch Johnson, applicant, on behalf of Elle Johnson, owner, is requesting the approval of a Special Use Permit (SUP) for a small machinery repair facility.

BACKGROUND: Enoch Johnson, applicant, on behalf of Elle Johnson, owner, is requesting approval of a Special Use Permit for the operation of a Automotive, Truck, and Small Machinery Repair facility on 1.49 acres. The property is zoned RA, Rural Agricultural District, and is located at 2742 Clarks Landing Road. The property may be identified as PIN # 3203-68-7501-0000. Currently the Pender County Zoning Ordinance requires a Special Use Permit for Automotive, Truck, and Small Machinery Repair Facilities to be located in the RA (Rural Agricultural) District.

SPECIFIC ACTION REQUESTED: Staff is requesting that the Board of Commissioners: Hold a Public Hearing for a request for a Special Use Permit for a small machinery repair facility in the RA (Rural Agricultural) District.

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: March 16, 2009
Case Number: 09-03-16-06
Applicant: Enoch J. Johnson
Property Owner: Elle Johnson

Land Use Proposed: The applicant is proposing a small machinery repair business to service and repair golf carts.

Property Record Number and Location: The property is identified by record number 3203-68-7501-0000 and is located at 2742 Clarks Landing Road.

Zoning District of Property: The property is zoned RA, Rural Agricultural District.

PROJECT HISTORY:

On January 13, 2009, Mr. Ralph Kays, Pender County Code Enforcement Officer, received a call from a neighboring property owner regarding multiple salvage golf carts on the Johnson property, and stated that a golf cart sales and service business is operating on the property. Mr. Kays investigated whether a Special Use Permit existed for the alleged business on the property, and the investigation revealed no permit was active. On January 14, 2009, Mr. Kays visited the site with another staff member and noted a number of salvage golf carts were stored on the property outside of an existing fence; Mr. Kays noted that the fence made it difficult to determine if a business was being conducted on the premises. Following the site visit, Mr. Kays found a listing in the Yellow Pages for "Eastwood Golf Carts, 2742 Clarks Landing Road, Rocky Point, NC 28457. Mr. Kays sent the first Notice of Violation for operating a commercial business and creating a salvage yard in a residential area without first obtaining a Special Use Permit.

On January 16, 2009, Mr. Enoch Johnson visited Mr. Kays' office to inquire about the violation letter. Mr. Kays advised Mr. Johnson of the complaint, and Mr. Johnson said that he does not feel that he is in violation even though he admitted that the golf carts in view are salvage. Mr. Johnson indicated that a friend needed a place to drop the carts temporarily, and some of the carts had been removed already. Mr. Johnson indicated that the remainder of the carts were to be removed by the middle of the following week (around January 21, 2009). When Mr. Kays questioned Mr. Johnson about the business, Mr. Johnson stated that he works for Corning Corporation in Wilmington repairing golf carts, and occasionally brings the carts home to complete the repairs. Mr. Kays also questioned Mr. Johnson regarding the advertisement in the Yellow Pages, to which Mr. Johnson responded that he had a golf cart business located on Eastwood Road in Wilmington at one time. Mr. Kays advised Mr. Johnson that if he was operating a business out of his home on Clarks Landing Road that he would need a Special Use Permit; Mr. Johnson denied having a business located at his home.

On January 21, 2009, Mr. Johnson filed the application for a Special Use Permit in the Planning Department. Mr. Johnson indicated at that time that only 18 salvage golf carts remain on the property, and the remaining carts will be removed in the near future. On March 4, 2009, Mr. Kays and Mr. Ben Andrea visited the site again to place the public hearing notice sign on the property and noted that the 18 salvage carts had been removed.

PROJECT DESCRIPTION:

The applicant is requesting approval of a Special Use Permit for the operation of a small machinery repair business to repair and service golf carts. The property currently consists of a single-family residence in which the applicant and owner have resided in since 1990 (see applicant's narrative).

The property consists of 1.49 acres located on the west side of Clarks Landing Road, approximately 0.36 miles south of the intersection of Clarks Landing Road and Clarks Landing Loop Road. The property is surrounded by parcels consisting of single family dwellings. The 33.44 acre tract directly across from the subject property from Clarks Landing Road is vacant and undeveloped.

The applicant is proposing to operate the business from 8am to 5pm, Monday through Friday. According to the applicant, he will be the only employee of the business. Also, according to the applicant, because the business will pick up and drop off the majority of the golf carts serviced by the business, no increase in traffic to the property should occur.

EVALUATION:

- A) Public Notifications:** Advertisements for the proposal have been placed in the Topsail Voice and Pender Post. Adjacent property owners were notified by first class mail.
- B) Basis for Granting SUP:** See Attachment A for approval procedures (15.3 of Zoning Ordinance) and revocation procedures (15.4b of Zoning Ordinance).
- C) Zoning Ordinance Compliance:** The property is zoned RA, Rural Agricultural District. Small machinery repair is permitted in the RA district via Special Use Permit (see attached zoning map).
- D) 2005 Land Use Plan Compliance:** The current CAMA Land Use Plan classifies the subject property as Urban Growth Area. Under the current CAMA Land Use Plan, this land classification provides for the continued development of areas provided with water and/or sewer services or where the county is actively engaged in planning these community services. These areas also have excellent access to the regional transportation system for a mixture of more intensive commercial or industrial or job creating uses and a range of residential land uses and housing types.
- E) Existing Land Use in Area:** The applicant and owner currently reside on the subject property. The surrounding properties are primarily single-family residences, with the exception of a large undeveloped parcel across Clarks Landing Road from the subject property.
- F) Site Access Conditions:** The property has direct access to Clarks Landing Road for ingress and egress.
- G) Conditions Governing Special Use Permit Approval:**
1. The project shall comply with and be maintained in accord with all provisions of all applicable sections of Pender County Ordinances and all state and federal regulations.
 2. A separate Zoning Permit must be obtained for any proposed signs. Signs shall be in accord with Section 16 of the Pender County Zoning Ordinance.
 3. The project shall comply with all requirements of the Commercial Development Standards and Site Plan Review, Section 9.14 of the Pender County Ordinance. This will include parking and landscaping requirements that will be in compliance with Sections 13 and 14 of the Pender County Zoning Ordinance. (Buffers are to be consistent with §14.7 D *Buffers Required for All Non-Residential Uses in All Residential Districts.*)
 4. Hours of operation shall be limited to 8 AM to 5 PM Monday through Friday.
 5. Storage and disposal of parts, chemicals, and salvage used and generated on site is must comply with all local, state, and federal regulations.
 6. Only repair of golf carts is permitted. No repair of other vehicles including but not limited to automobiles, travel trailers, recreational vehicles, all-terrain vehicles (ATVs), or boats is permitted.
 7. The existing fence shall be maintained in entirety. Any damage to the existing fence shall be immediately repaired. No repair or temporary or permanent storage of machinery, merchandise, materials, salvage, parts, etc. of any type is permitted outside of the fenced area.
 8. No sales of golf carts, parts, or accessories are permitted on site. No outside display of parts or golf carts is permitted.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on March 16, 2009 the Pender County Board of Commissioners (approved, modified, denied) a special use permit for the operation of a small

ITEM NO: _____

machinery repair business, as described herein, and Jimmy T. Tate, 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: Tate ____ Brown ____ Blanchard ____ Rivenbark ____ Williams ____

Jimmy T. Tate,
Chairman 3/16/2009
Date

ATTEST 3/16/2009
Date

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



APPLICATIONS COVER SHEET

Date Application Filed: _____

I. REQUIRED NAMES:

Applicant Enoch J Johnson Owner Elle Johnson

Address 2742 Clarks Rd Address Same
Rocky Point NC

Phone 910-625-8887 Fax 910-625-8816 Phone Same Fax Same

Email eastwoodgolfcarts@yahoo.com Email Same

Legal Relationship of Applicant to Property Owner: Wife

Consultant Name/Company N/A

Address N/A

Phone N/A Fax _____

Email _____

Enoch J. Johnson
(Signature of Applicant)

Elle Johnson
(Signature of Owner)

If owner is different from applicant, both signatures are required.

II. TYPE OF APPLICATION:

(Please check one)

Board of Adjustment:

Variance

Appeal

Zoning:

Text Amendment

Map Amendment

Special Use Permit

Plans:

Planned Development

Subdivision Preliminary Plat

Deadline BOCC March
Jan 30

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



SPECIAL USE PERMIT APPLICATION

Date 1/21/09

Application Fee \$ 200.⁰⁰

SUP 09-03-16-06

I. PROJECT INFORMATION:

Parcel ID #: 3203.68.7501

Total Property Acreage: 1.49 acres

Zoning District: RA

Acreage to be Disturbed: 0

Property Location/Address: 2742 Clarks Landing Rd.

Describe activities to be undertaken on project site:

Operating a Golf Cart repair -
Machinery, including Machinery Electrical

II. REQUIREMENTS FOR ISSUING A SPECIAL USE PERMIT:

1. The use requested is listed among the special uses in the district for which the application is made; or is similar in character to those listed in that district;
2. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
3. The proposed use shall not constitute a nuisance or hazard;
4. The requested use will be in conformity with the land use plan;
5. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
6. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
7. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
8. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

Any information the applicant wishes to submit to assist in making the above findings may be included as part of the Project Narrative or as a supplement labeled "Support Information-Required Findings" (max. 1 page).

**Please refer to Special Use Application Checklist for further requirements.*

III. SIGNATURE OF OWNER & APPLICANT:

Ernoch J. Johnson Elle Johnson
(If owner is different from applicant, both signatures are required)

SPECIAL USE PERMIT APPLICATION CHECKLIST

✓		1. Signed application form	✓
✓		2. Application fee	✓
✓		3. Legible list of all property owners adjacent to the property upon which the use is to be located. The list shall include the mailing address & physical address of these property owners (The application will not be advertised for public hearing until the list is accurate & complete--the list maybe compiled from the public PC terminal in the Pender County Tax Office).	
✓		4. One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list. 5 envelopes w/ stamps	
✓		5. Project Narrative--Written description of the project (max of 3 pages) including the following: <ul style="list-style-type: none"> • Location of the project and type of access to project site • Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. • Description of all construction activities to be undertaken on the site. • Describe type of utilities that will serve project and status of approval from Environmental Health. • List of all state and federal permits that will be required for the project • Describe any potential impacts the project will have on the community or adjacent properties such as traffic, noise, etc. and explain efforts to mitigate these impacts (this item must be addressed by the applicant). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project. 	
✓	<div style="border: 1px solid black; border-radius: 50%; padding: 5px; width: 40px; margin: 5px auto;">20 11x17</div> <div style="border: 1px solid black; border-radius: 50%; padding: 5px; width: 40px; margin: 5px auto;">2 30x24</div>	6. Project Map(s)--Map or maps of the special use project site with boundaries of the project if less than the parcel boundaries. This map or maps shall be drawn to a readable scale. The scale shall be not more than 200' to the inch. The map shall display an accurate bar graph scale, date prepared, north arrow and the author of the map. This map(s) shall show the following: <ul style="list-style-type: none"> • Boundaries of the property upon which the special use will be located, the acreage in the property and project site, with a north arrow and bar graph. • Access from the site and/or project boundaries to the nearest publicly maintained road. • Location of any existing structures or uses on the property and within 50' of the property. • Location of the project boundaries if they do not coincide with the property boundaries. • Existing and proposed structures, other on-site improvements, and location of all activities associated with the use, location of well, septic tank, and/or other utilities. • Boundary of all clearing, grading, and/or land disturbing activities on the site and the calculated acreage of all land disturbing activities on the site. • Existing and proposed fencing, vegetative screening and buffers (Must comply with Sect. 16, Sect. 13.3 C., and Sect. 8.6 D., E., F. & G. of the Zoning Ord.). • Parking, loading areas, landscaping and access (Must comply with Section 13 of the Zoning Ord.). • All signs to be located on the property (Must comply with Sect. 15 of the Zoning Ord.) • Pedestrian walks, area lighting and flood lighting. • Existing natural features of the site including, wooded areas, tree lines, ponds, streams, other water bodies or ditches on or adjacent to the site, designated flood hazard areas & known or designated wetlands on the site. • Drainage plan and/or direction of flow of runoff from the project and site. • After review by the Planning and Community Development Department, additional information may be required to be submitted. • Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted. 	11x17
n/a		7. Applications including more than one acre of disturbed area should consult for additional requirements.	
✓		8. Application received by <u>A Frank</u> Date <u>1/21/09</u>	
✓		9. Application completeness approved by <u>A Frank</u> Date <u>1/21/09</u>	
✓		10. Date scheduled for public hearing <u>March 16, 2009</u>	

To whom it may concern;

My name is Enoch Johnson, I am 68 years old. I have been in the golf cart business for 18 years in New Hanover County, Castle Hayne & Wilmington and I live in Pender County and have been since 1990. I am in the process of going into semi-retirement. I would like to continue to service my customers that have bought carts through the years, at my home location at 2742 Clarks Landing Road Rocky Point, I just closed my operation in New Hanover.

Thank you

Enoch Johnson

1-19-09

Attachment A: Basis for Granting Special Use Permit

15.3 Procedures for Reviewing Applications

The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.

The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed. The Zoning Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing. All Special Use Permit applications must be presented to the Zoning Administrator for a determination of completeness. An appeal from a completeness determination may be had to the Board of Adjustment or Superior Court within twenty (20) days of the determination.

The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit the Board of Commissioners, with due regard to the nature and state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:

- A. The use requested is listed among the special uses in the district for which application is made; or is similar in character to those listed in that district;
- B. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
- C. The proposed use shall not constitute a nuisance or hazard.
- D. The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
- E. Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
- F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads; and
- G. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located;
- H. The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

15.4 General Provisions Concerning Special Use Permits

B. Revocation

In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Zoning Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Zoning Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified.

After a public hearing has been held, the Board of Commissioners may revoke the Special Use Permit upon finding any of the following:

- 1) That the approval was obtained by fraud.
- 2) That the use for which such approval was granted is not being executed.
- 3) That the use for which such approval was granted has ceased to exist or has been suspended for six months.
- 4) That the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval.
- 5) That the permit granted is in violation of an ordinance or statute.
- 6) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.