



REQUEST FOR BOARD ACTION

ITEM NO. 14.

DATE OF MEETING: March 15, 2010

REQUESTED BY: Ashley Frank, Planner II, Planning & Community Development

SHORT TITLE: Resolution to Approve a Special Use Permit for the Operation of a Wood Working Business and the Storage of Merchandise, Materials and/or Equipment outside an Enclosed Building.

BACKGROUND: The property is identified by PIN(s) 3351-05-5154-0000, 3351-05-2017-0000 and is located at 6911 and 6951 NC Highway 53 East, Burgaw, NC. The Special Use Permit would allow the applicant to operate a business that constructs accessory storage buildings, stairs, decks and gazebos.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for the operation of a wood working business and the storage of merchandise, materials and/or equipment outside an enclosed building.

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: March 15, 2010
Case Number: 10-03-15-01 Crapper
Applicant: Gene Crapper, Jr.
Property Owner: Same

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the operation of a wood working business and the storage of merchandise, materials and/or equipment outside an enclosed building. Any materials to be stored on the property would be related to the D&H Gutters & Steps & Buildings. The business constructs accessory storage buildings, stairs, decks and gazebos onsite. The gutters are constructed offsite; however some storage of materials for this business will be required.

Property Record Number and Location: The property is identified by PIN(s) 3351-05-5154-0000, 3351-05-2017-0000 and is located at 6911 and 6951 NC Highway 53 East, Burgaw, NC.

Zoning District of Property: The property is zoned RA, Rural Agricultural, and the uses of woodworking, building materials and the storage of merchandise, materials and/or equipment outside an enclosed building is permitted via Special Use Permit.

PROJECT DESCRIPTION:

The applicant, Gene Crapper, Jr. is requesting the approval of a Special Use Permit (SUP) for the operation of a wood working business and the storage of merchandise, materials and/or equipment outside an enclosed building. The property consists of 2 tracts totaling approximately five (5) acres.

Ingress and egress for the project will utilize NC Highway 53 East; the N.C. Department of Transportation will require a driveway permit for the business.

The applicant is proposing hours of operation to be from 7 AM to 7 PM seven days a week, however due the residential nature of the surrounding area staff would recommend limiting the hours of operation.

The site currently utilizes water service provided by an on-site private well, and individual on-site septic system, any further development would be subject to review and approval from Pender County Environmental Health.

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.

The subject property is completely located within the AE Floodplain along the Northeast Cape Fear River, according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number 37200335100J, Panel Number 3351, with an established Base Flood Elevation (BFE) of 17 feet. Any new development will need to comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Flood Damage Prevention Ordinance. A Flood Plain Development Permit would be required prior to the issuance of Final Zoning.

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 the uses for the operation of a wood working business and the storage of merchandise, materials and/or equipment outside an enclosed building are permitted via Special Use Permit (SUP), as prescribed by the Pender County Zoning Ordinance §8.9 Table of Permitted Uses.
- D. **2005 Land Use Plan Compliance:** The subject property is currently classified as Rural Area as defined in the Pender County 2005 CAMA Land Use Plan. The proposed land uses are not specifically addressed in the Pender County 2005 CAMA Land Use Plan. Rural Areas are defined in the 2005 CAMA Land Use Plan as: This classification provide protection to these activities from encroachment by higher density residential development and other activities that may be incompatible with intensive farm activities, including livestock operations. In addition to farm and timber operations, the Rural Area provides for very low-density residential uses, home-based businesses, other businesses traditionally associated with rural farm areas and extraction activities.
- a. In the 2005 CAMA Land Use Plan, Policy I.D.I.D: The county recognizes the risks to life and property that exist within its special flood hazard areas and related ocean hazard area AECs. The county will continue implementing measures that mitigate these risks and discourage new development activities that increase the potential for risk in these areas.
 - i. Development in any designated Special Flood Hazard Area shall consist of low density/intensity activities or facilities.

This proposal may not be consistent with this policy.

- E. **Existing Land Use in Area:** The land use pattern for the surrounding area is residential. Specifically, the land uses are as follows: located to the north is low density residential. To the east low density residential and vacant. To the south is vacant and to the west is low density residential.
- F. **Site Access Conditions:** The property has direct access to NC Highway 53. The NC Department of Transportation will require a driveway permit for a new business.
- G. **Conditions To Consider In Issuing A Revision of the Special Use Permit For This Project:**
1. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
 2. A separate permit must be obtained for any proposed signs. Signs shall be in accordance with Section 16 of the Pender County Zoning Ordinance. The project shall comply with all requirements of the Pender County Zoning and Subdivision Ordinances.
 3. The project shall comply with all requirements of the Pender County Zoning, Subdivision Ordinance and the Flood Damage Prevention Ordinances.
 4. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation.
 5. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit
 6. The project shall be developed and maintained in accord with the applicant's final revised site plan as approved by the Zoning Administrator, the Zoning Ordinance and the conditions contained in this permit.
 7. The hours of operation (staff suggested) shall be Monday thru Friday 8:00 AM thru 6:00 PM and Saturday 9:00 AM thru 1:00 PM.
 8. All NC DOT requirements and improvements shall be met prior to issuance of final zoning.
 9. Property must be brought into compliance with Pender County Code Enforcement; all current violations must be resolved prior to the issuance of final zoning.
 10. All development must meet NFIP regulations, as required in the Pender County Flood Damage Prevention Ordinance before final zoning is issued.

- 11. The project shall comply with all requirements of the Commercial Development Standards and Site Plan Review, Section 9.14 of the Pender County Ordinance.
- 12. No junk, debris trash or inoperable vehicles, recycled or salvaged materials shall be stored on the site all debris shall be removed from the site prior to issuance of a zoning permit.
- 13. General Retail Sales or the Sales of Prefabricated Building is not permitted in the RA, Rural Agricultural District.
- 14. No display of merchandise shall be visible from NC Highway 53 or adjacent properties must be screened by either privacy fencing and/or landscaping.
- 15. Any flood or spotlights shall be oriented away from the street. Such lights shall also be oriented away from adjacent properties or shielded to reduce direct light from shining on such properties. This provision does not apply to normal area lights (non-directional).
- 16. All storage of merchandise, materials and/or equipment outside an enclosed building, shall be located inside either a chain link or privacy fence to prevent movement ,off -site, during a flood event.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on March 15, 2010 the Pender County Board of Commissioners (approved, modified, denied) a special use permit for operation of a wood working business and the storage of merchandise, materials and/or equipment outside an enclosed building, 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.

MOVED _____ **SECONDED** _____

APPROVED _____ **DENIED** _____ **UNANIMOUS** _____

YEA VOTES: Tate _____ Blanchard _____ Brown _____ Rivenbark _____ Williams _____

Jimmy T. Tate,
Chairman

03/15/2010
Date

ATTEST

03/15/2010
Date

Attachment A

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

A. Compliance With Other Codes

Granting of a Special Use Permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

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.

C. Expiration

Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months after the Notice of Approval of the Special Use Permit has been served on the applicant. The Zoning Administrator may provide up to two extensions of the expiration date by no more than 6 months each, for complex projects requiring major state or federal permits, upon receipt of a written request for such extension by the applicant detailing the reasons for delay in completion of the requirements for the zoning permit.