



REQUEST FOR BOARD ACTION

ITEM NO. 18.

DATE OF MEETING: June 21, 2010

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

SHORT TITLE: Public Hearing & Special Use Permit (SUP) Request: Construction and Operation of an Automobile Dealer & Truck Sales (Wholesale and Retail New and Used) and Farm Implement Sales

BACKGROUND: The property is identified as PIN# 3320-81-7424-0000 and is located at the southwest intersection of NC Highway 53 and Burgaw Creek Loop Road, in Burgaw, North Carolina. The Special Use Permit would allow the applicant to construct and operate an Automobile Dealer & Truck Sales (Wholesale and Retail New and Used) and Farm Implement Sales, on one (1) tract of land totaling approximately .52 acres (22,651 square feet).

SPECIFIC ACTION REQUESTED: The Board is requested to hold a public hearing and consider the approval of a Special Use Permit the construction and operation of an Automobile Dealer & Truck Sales (Wholesale and Retail New and Used) and Farm Implement Sales.

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: June 21, 2010
Applicant: William Bell
Property Owner: Same
Case Number: SUP 10-06-21-05 Bell

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the construction and operation of an Automobile Dealers & Truck Sales (Wholesale and Retail New and Used) as well as Farm Implement Sales.

Property Record Number and Location: The property is located at 1860 NC Highway 53 East on the corner of NC Highway 53 and Burgaw Creek Loop Road in Burgaw, NC and may be identified as PIN 3320-81-7424-0000.

Zoning District of Property: The property is currently zoned B-2, Business District (Highway) and the uses of Automobile Dealers & Truck Sales (Wholesale and Retail New and Used) and Farm Implement Sales are permitted via Special Use Permit.

PROJECT DESCRIPTION:

The applicant, William Bell, is requesting the approval of a Special Use Permit (SUP) for the construction and operation an Automobile Dealer & Truck Sales (Wholesale and Retail New and Used) as well as Farm Implement Sales. The property consists one (1) tract totaling approximately .52 acres (22,651 square feet).

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 8 AM to 5 PM Monday thru Saturday and by appointment on Sunday.

The site could utilize water and service provided by the Town of Burgaw, this would require approval through the Town's Utilities Department. Located on the subject's property is an on-site private well and individual on-site septic system, which would require review and approval from Pender County Environmental Health.

The applicant is proposing a mobile office building not to exceed 800 square feet. The unit would need to meet all commercial standards of the North Carolina Building Code and Pender County Zoning Ordinance provisions. All new development on the site shall comply with the Pender County Flood Damage Prevention Ordinance.

The project shall comply with all requirements in § 9.14 Commercial Development Standards, of the Pender County Zoning Ordinance and Site Plan Review and parking/ landscaping requirements in §13 and §14 of the Pender County Zoning Ordinance.

The applicant is also proposing an Automobile Repair Station, to be located on the site. This proposal is not part of the Special Use Permit request as this use is permitted by right in the B-2 Business District, however will still have to comply with all Pender County Code and Ordinances.

The subject property is completely located within the AEFW Special Flood Hazard Area, along Burgaw Creek. According to the North Carolina Flood Insurance Rate Maps (FIRM) Map number 3720332000J, Panel Number

3320 the subject's property has an established Base Flood Elevation (BFE) of 27 feet. Any project encroaching within floodway must be reviewed to determine if the project will increase flood heights, and must comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Flood Damage Prevention Ordinance. Prior to the issuance of any building permits a No-rise Certification must be provided. All requirements of the Pender County Flood Damage Prevention Ordinance must be satisfied prior to the issuance of any permits.

Technical Review Committee (TRC) comments/concerns:

Pender County Utilities (PCU):

PCU stated that water and sewer service would be provided by the Town of Burgaw due to the proximity to the site within the Burgaw Planning jurisdiction.

NC DOT:

The NC Department of Transportation will require a Driveway Permit.

Pender County Environmental Health (PCEH): The subject's property has an existing On-site Septic Tank and an existing private well. Both will require an inspection and approval from Pender County Environmental Health. Supplemental information provided by PCEH states according to *GS-130A-335 "a person owning or controlling a residence, place of Business or a place of public assembly shall provide an approved wastewater system"*.

Pender County Emergency Management (PCEM) : With the property falling entirely in the AEFW (Floodway) Emergency Management has concerns about the possibility of repetitive loss, along with environmental concerns with this type of business in the AEFW. PCEM would like some guarantee that public and county funds will not be used a flooding event.

Soil & Water Conservation: Has reviewed the Special Use Application and made the following comments: Would be cautious due to prone flooding area, septic system function (if installed), and drainage impacts of property to Burgaw Creek.

All other Technical Review Committee (TRC) members had no comment on the development proposal.

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:** property is currently zoned B-2, Business District (Highway) and the uses of Automobile Dealers & Truck Sales (Wholesale and Retail New and Used) and Farm Implement Sales are permitted via Special Use Permit, 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 Transition Areas. In the 2005 CAMA Land Use Plan, Policy 1D.1 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. The County will continue to implement FEMA Standards in Special Flood Hazard areas to insure reasonable protection to properties in those areas.
 - ii. New development other than that necessary for water access and open space/recreation related activities shall be discouraged in the designated Floodway. Creation of new lots/parcels (New Development) other than for open space, recreation, water access,

agricultural, forestry or other non-habitable structures in the designated floodway shall be prohibited.

- iii. 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 low density residential and to the west is vacant.
- 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 shall be Monday thru Saturday 8:00 AM thru 5:00 PM and Sunday by appointment.
 8. All NC DOT requirements and improvements shall be met prior to issuance of final zoning.
 9. All development must meet NFIP regulations, as required in the Pender County Flood Damage Prevention Ordinance before final zoning is issued.
 10. The project shall comply with all requirements of the Commercial Development Standards and Site Plan Review, Section 9.14 of the Pender County Ordinance.
 11. 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.
 12. 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).

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on June 21, 2010 the Pender County Board of Commissioners (approved, modified, denied) a special use permit for operation and construction of Automobile Dealer & Truck Sales (Wholesale and Retail New and Used) and Farm Implement Sales, 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

06/21/2010

Date

ATTEST

06/21/2010

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

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.

April 15, 2010

This is letter of intent to Pender County Board of Commissioners concerning special use permit for location at 1860 Hwy 53 East Burgaw, NC owned by William Robert Bell which borders Hwy 53, Burgaw Creek Loop Road and Roy Hand property.

PURPOSE: Proposed uses for property to include 1) used automobile sales, 2) automotive and farm machinery repairs and 3) new and used farm machinery sales.

ACCESS: There are currently two entrances accessible from Highway 53 directly unto property. A third entrance is accessible from Burgaw Creek Loop Road at rear of property. All loading and unloading of vehicles to take place at rear entrance from Burgaw Creek Loop Road as to not interfere with direct entrances to Highway 53. Burgaw Creek Loop Road currently has it's own stop sign to enter unto Highway 53.

DETAILED DESCRIPTION OF ACTIVITIES: Buying and selling of used automobiles by a licensed automobile dealer approved by NCDMV.

Repairs of automobiles. Buying and selling of new and used farm machinery and repairs. # of total vehicles to be kept to maintain a pleasing atmosphere with no crowding near any roadway.

HOURS OF OPERATION: Hours of operation to be held within normal business hours. Monday-Saturday 8AM-5PM Sunday by appointment.

Business and property owner may be on property at various hours of the day or night as deemed necessary.

OF EMPLOYEES: Maximum number of employees is 4. The majority of the time only 1 will be present.

CONSTRUCTION ACTIVITIES: Erection of a business sign approximately 10-15' from Highway 53 with a floodlight at a distance close in middle of proximaty of lot. Exactness to be determined by Pender County approval.

Mobile office trailer as noted on map. Size not to exceed 40x20. Buidling to be on blocks as required by Pender County to meet elevation requirements, not on a permanent foundation. To be powered by electricity. An electric pole is next to building location. There is also an electric pole at front corner of property, as well as an electric meter box on a billboard sign on property. Office trailer is for sales use. A water and sewer line pass through property frontage off Highway 53. An old septic tank is on property but not in use. A well is also on property available for water hookup. Office trailer will have wheels removed but available to put on if need be. Parking spaces to be on two sides of building with a walkway but not cemented. An outside light to be mounted on building. A repair shop to be constructed 40x40 within a carport, to contain 2 bays, sidewalls to keep out elements, as required by Pender County. Electricity to be fed to building.

Parking spaces as required, with a walkway and light at entrance on building. No cement sidewalks.

Cars and machinery for sale will be dispersed throughout property with exception to old septic area. Clear driveways will be evident. There is adequate room for parking of customers/employees/ and sales.

Drainage flows from front of property on Highway 53 towards Burgaw Creek Loop Road and then flows to rear of property approximately 20 feet before Burgaw Creek Loop Road.

Uses will not adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property. Uses will not constitute a nuisance or hazard and will be in conformity with land use plan. The NCDMV oversees activity of used car sales which also adds more controls to the strict adherence the lawful guidelines of the business. There are adequate utilities on the property already existing is an electric pole which will provide service. Drainage and sanitation are not to propose any problems. Elevation will be provided for proposed buildings to ward off any rising waters if any flooding occurs due to the history of this property being in a flood zone. There are adequate access roads to property to allow for quick, easy, and uncongested traffic flow. The design flow of drives shall allow easy and safe access. The proposed uses shall not affect surrounding properties. There shall be minimal noise of vehicles being started, worked on, or moved. Noise levels to be conciously maintained. Repair shop to be placed in rear of property, at farthest location from closest neighboring home.

Property shall be more than adequately landscaped to be aesthetically pleasing to surrounding property owners and incoming traffic to Pender County. Property contains some existing large trees and required buffers will be added as required by county. In addition, some flowering shrubs

and plants will be added for beauty. Property is currently dirt but could be gravelled as deemed so necessary in certain areas. Proposed business owner and tenant have a long standing reputations within the automotive industry. Business is to provide affordable prices to meet the needs of local and incoming residents. Proposed business tenant is a licensed automotive dealer with no standing complaints with the Department of Motor Vehicles in his 16 year plus history and comes from a family of generations of knowledgeable and professional car salesman. Property owner also has an even longer standing roots in the community and a lifetime of knowledge and experience of automotive sales and farm machinery. Uses for the property are to soley benefit the public by providing services and sales at affordable prices with a friendly business attitude. Suggestions are welcomed from surrounding property owners as well as their concerns.

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



APPLICATIONS COVER SHEET

Date Application Filed: April 19, 2010 @ 11:19 am

I. REQUIRED NAMES:

Applicant <u>William Roy Bell</u>	Owner <u>William Roy Bell</u>
Address <u>47N MURRAY TOW RD</u> <u>BURGAW NC 28425</u>	Address <u>47N MURRAY TOW RD</u> <u>BURGAW NC 28425</u>
Phone <u>910 431 5933</u> Fax <u>N/A</u>	Phone _____ Fax _____
Email _____	Email _____
Legal Relationship of Applicant to Property Owner: <u>self</u>	
Consultant Name/Company <u>n/a</u>	
Address <u>Ø</u>	
Phone <u>Ø</u>	Fax <u>Ø</u>
Email <u>Ø</u>	

II. AFFIDAVIT REGARDING OWNER - APPLICANT RELATIONSHIP:

I, William Roy Bell (owner) and William Roy Bell (applicant) hereby affirm that an appropriate contractual relationship permitted by the appropriate NC State Codes exists between said Owner and Applicant. Owner and Applicant also affirm that if the owner requests that the application be terminated, staff will comply with Owner's request.

William Roy Bell
(Signature of Applicant)

William Roy Bell
(Signature of Owner)

III. TYPE OF APPLICATION:

(Please check one)

Board of Adjustment:

- Variance
- Appeal

Zoning:

- Text Amendment
- Map Amendment
- Home Occupation
- Special Use Permit
- Vested Rights Determination

Plans:

- Planned Development Master Plan
- Subdivision Preliminary Plat
- Final Plat

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



FEE SCHEDULE

Board of Adjustment:	Applicable Fees:	Fee Calculation:
Variance	\$250.00	0
Appeal	\$250.00	0
Zoning:		
Zoning Determination Letter	\$15.00	
Text Amendment	\$250.00	
Map Amendment	\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter	
Vested Rights Determination	\$250.00	
Home Occupation	\$25.00	
Special Use Permit	\$300.00 & \$10.00 per acre over 5 acres; max of \$5,000.00	.52 acres 300.00
SUP, Part of AEC	\$300.00 & \$10.00 per acre over 5 acres	
SUP, Tower over 75 ft.	\$500.00	
SUP, Mining Borrow Pit	\$750.00 & \$10.00 per acre over 5 acres	
SUP, Mining other	\$1,000.00 plus \$5.00 per acre	
Plans:		
Planned Development Master Plan	\$500.00 plus \$10/acre for the first 100 acres; \$5/acre thereafter	
Preliminary Plat	\$500.00 & \$10/lot/residential unit for the first 100 lots/units; \$5 per lot/unit thereafter	
Final Plat	\$250.00 & \$10/lot/residential unit for the first 100 lots/units; \$5/lot/unit thereafter	
Total Fees Due:		300.00

Attachments Included with Application:
(Please include # of copies)

___ CD ___ Plan Sets ___ Other Documents/Reports

Method of Payment: ___ Cash
 ___ Credit Card, We accept VISA ___ and MasterCard ___ only.
 Check, Ck. # (1777)

For Office Use Only:

Receipt # 00 099435

Received By: Ashley D. Frank

Date: 4.19.2010

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



SPECIAL USE PERMIT APPLICATION

THIS SECTION FOR OFFICE USE			
Application No.	SUP 10.05.17.04	Date	4/19/10 April 19, 2010
Permit Fee	300.00	Receipt No.	
APPLICANT INFORMATION			
(*) Applicant Name	William Post Bell		(*) Owner Name
Address:	474 MURRAY RD BURGAW NC 28515		Address:
Phone No:	910 431 6233		Phone No:
Legal relationship of applicant to owner:	murrayauto@att.net		
PROJECT INFORMATION			
Property tax record No.	3320.81.7424	Total property acreage:	22,651.2 sqft
Zoning Designation:	B-2	Acreage to be disturbed:	0
Acreage to be used for project:	52		
(*) Project location and address:	1810 Hwy 53 EAST BURGAW		
(*) Describe activities to be undertaken on project site:	USED CAR SALES REPAIRS - FARM MAINT		
SIGNATURES			
Applicant:	Date:	Owner:	Date:
<i>William Post Bell</i>	Apr 15 2010	<i>William Post Bell</i>	Apr 15 2010
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on page two of this form. 2. Applicant or agent authorized in writing must attend the public hearing. 3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Commissioners or other authorized person agrees to table or delay the hearing. 4. Applicant may wish to review the required findings for approval of a Special Use Permit (p. 3). 5. Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing. 			