

REQUEST FOR BOARD ACTION

ITEM NO. 25

DATE OF MEETING: September 20, 2010

REQUESTED BY: Ashley Frank, Planner II, Department of Planning and Community Development

SHORT TITLE: Resolution to Approve Special Use Permit (SUP) for the Construction and Operation of Convenience/Gas Station Facility (NAICS Sector 447110).

BACKGROUND: The applicant, JBS Consulting PA, on behalf of the owner, Evans/Haines LLC, is requesting the approval of a Special Use Permit (SUP) for construction and operation of Convenience/Gas Station Facility (NAICS Sector 447110). The subject property is located at the southeast corner of NC Highway 53 East and Shaw Highway and can be identified as PIN: 3351-98-7498-0000. The property is currently zoned RA, Rural Agricultural District, and the use of a Convenience/Gas Station Facility (NAICS Sector 447110) is permitted via SUP in the RA, Rural Agricultural District.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for the construction and operation Convenience/Gas Station Facility.

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: September 20, 2010

Applicant: JBS Consulting, PA

Property Owner: Evans/ Haines, LLC.

Case Number: SUP 10-09-20-08 Evans/ Haines, LLC.

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the construction and operation of Convenience/Gas Station facility (NAICS Sector 447110).

Property Record Number and Location: The subject property is located at southeast corner of NC Highway 53 East and Shaw Highway and can be identified as PIN: 3351-98-7498-0000.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural District, and uses in the NAICS Sector 447, Gasoline Stations are permitted via SUP in the RA, Rural Agricultural District.

PROJECT DESCRIPTION:

The applicant, JBS Consulting PA, on behalf of the owner, Evans/Haines LLC, is requesting the approval of a Special Use Permit (SUP) for construction and operation of a Convenience/Gas Station facility (NAICS Sector 447110). The property consists of one (1) tract totaling approximately 1.71 acres (744,876 square feet).

The proposed construction will include the store structure with parking, and a gas service area. The initial construction of the site should take approximately 4-6 months, with site complying with all federal, state and local permitting requirements.

Prior to the issuance of a zoning approval and building permits; a Major Site Development Plan must be submitted and approved, in accordance with Articles 3.5 and 3.9, a part of this review will include compliance with Article 7 Landscaping and Buffering as prescribed the Pender County Unified Development Ordinance. The site plan submitted with this application is considered conceptual and does not reflect any approvals or regulations in effect.

Access to the facility will be provided by two separate driveway entrances, located on Shaw Highway and NC Highway 53; subject to review and issuance of Driveway Permits by the NC Department of Transportation.

The applicant plans to utilize a private on-site well and on-site septic system, both subject to review and approval from Environmental Health.

The property does not contain any Special Flood Hazard Area; however the proposal does fall into the Zone X (shaded). Zone X (shaded) are the areas between the limits of the base flood and the 0.2-percent-annual-chance (or 500-year) flood.

Based on the preliminary site plan submitted by the applicant, there may be jurisdictional wetlands located within the property. A consultation with the Army Corps of Engineers (ACE) should be undertaken prior to construction to ensure compliance with the Clean Water Act and prior to the issuance of any permits.

Technical Review Committee (TRC) comments/concerns:

Pender County Environmental Health (PCEH):

No Comment

Pender County Utilities (PCU):

At this time PCU is unable to service the subject property and has no further comment on the SUP Application.

Pender County School System:

The school system has reviewed the proposed project and do not see any impact on Pender county Schools.

NC DENR - Division of Land Resources - Land Quality Section:

The project will require an Erosion and Sedimentation Control Plan if land disturbance is greater than one (1) acre.

NC DOT:

The NC Department of Transportation will require a Driveway Permit.

NC Flood Plain Management:

The NFIP regulations do not apply to areas outside the 100 year floodplain, called the Special Flood Hazard Area. Unless Pender County has adopted regulations for development within the Zone X, there are no permitting requirements for underground fuel tanks.

Soil and Water Conservation:

Soil & Water does not see a problem.

US ACE:

No comment

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 (§3.10.3 of Unified Development Ordinance) and revocation procedures (§3.10.4 of Unified Development Ordinance).
- C. ***Unified Development Ordinance Compliance:*** The property is currently zoned RA, Rural Agricultural District, and uses defined under NAICS Sector 447110 (Gasoline Stations) are permitted in the RA, Rural Agricultural District by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance Article 5.2.3 Table of Permitted Uses.
- D. ***2005 CAMA Land Use Plan Compliance:*** The subject property is currently classified within Rural Areas. The proposed development is consistent with this classification, as the CAMA Land Use Plan states; Rural area commercial development should be encouraged to locate near crossroad centers or other locations with good access and should be limited to local convenience stores, farm supply stores, and generally accepted rural business establishments.
- E. ***2010 Comprehensive Land Use Plan Compliance:*** The subject property is currently classified within a Rural Growth area. The proposed land use is compliant with the Rural Growth land use designation. 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 non-residential 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.

- F. *Existing Land Use in Area:* The parcels immediately adjacent to the subject parcel are vacant, very low net density residential is across NC Highway 53 East and along the left side of Shaw Highway.
- G. *Site Access Conditions:* The property has direct access to NC Highway 53 and Shaw Highway via two proposed driveways.
- H. *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 in accordance with Article 9 of the Pender County Unified Development Ordinance.
 3. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
 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 conditions contained in this permit.
 7. Prior to the issuance of a zoning approval and building permits; a Major Site Development Plan must be submitted and approved, in accordance with Articles 3.5 and 3.9, a part of this review will include compliance with Article 7 Landscaping and Buffering as prescribed the Pender County Unified Development Ordinance.
 8. The hours of operation shall be 6 AM to 9 PM seven days a week.
 9. 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.
 10. Review of this proposal will occur within the regulations prescribed in the Pender County Unified Development Ordinance, Adopted June 21, 2010.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on September 20, 2010 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for the construction and operation of Convenience/Gas Station (NAICS Sector 447110), 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 09/20/2010
Date

ATTEST 09/20/2010
Date

Attachment A

3.10.3 Procedures for Reviewing Applications

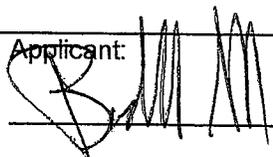
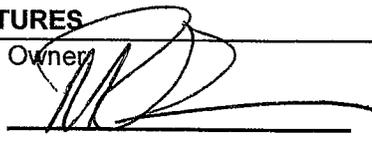
- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. 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.
- D. The 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.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- G. 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:
 - 1. 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;
 - 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 Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
 - 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.

3.10.4 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 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 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.

APPLICATION FOR SPECIAL USE PERMIT

SUP 10-09-20-08 Evans/Haines

THIS SECTION FOR OFFICE USE			
Application No.	SUP 10-09-20-08 Evans	Date	August 6, 2010
Permit Fee	\$ 300.00	Receipt No.	
APPLICANT INFORMATION			
Applicant Name JBS CONSULTING, PA		Owner Name EVANS-HAINES, LLC	
Address: BRAD SEDGWICK, PE 7332 COTESWORTH DR WILMINGTON, NC 28405		Address: MARTIN EVANS 14875 HWY 17 NORTH HAMPSHIRE, NC 28443	
Phone No: 910-619-9990		Phone No: 910-270-2221	
Legal relationship of applicant to owner: CONSULTANT			
PROJECT INFORMATION			
Property Identification Number: 3351-98-7498-0000		Total property acreage: 1.71 ACRES	
Zoning District: RA		Acreage to be disturbed: 1.71 ACRES	
Project location and address: SOUTHEAST CORNER OF HWY 53 EAST & SHAW HWY			
Describe activities to be undertaken on project site: PROPOSED PROJECT INCLUDES A CONVENIENCE / GAS STATION FACILITY. NAICS code = 447110			
SIGNATURES			
Applicant: 	Date: 8/5/10	Owner: 	Date: 8/6/10
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. 1). 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. 			

SPECIAL USE PERMIT CHECKLIST

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	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).
<input checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input checked="" type="checkbox"/>	<p>Project Narrative--Written description of the project (<u>max of 3 pages</u>) including the following:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Location of the project and type of access to project site <input checked="" type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input checked="" type="checkbox"/> Description of all construction activities to be undertaken on the site <input checked="" type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input checked="" type="checkbox"/> List of all state and federal permits that will be required for the project <input checked="" type="checkbox"/> 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 (<u>this item must be addressed by the applicant</u>). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
<input checked="" type="checkbox"/>	<p>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 <u>readable</u> 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:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> 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. <input checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input checked="" type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <input checked="" type="checkbox"/> 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. <input checked="" type="checkbox"/> 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. <input checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 6, Pender County UDO) <input checked="" type="checkbox"/> Landscaping and buffering (See Article 7, Pender County UDO) <input checked="" type="checkbox"/> All signs to be located on the property (See Article 9, Pender County UDO) <input checked="" type="checkbox"/> Pedestrian walks, area lighting and flood lighting. <input checked="" type="checkbox"/> 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. <input checked="" type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site. <input checked="" type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted. <input checked="" type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.
7.	Applications including more than one acre of disturbed area should consult for additional requirements.
8.	Application received by <u>Ashley D. Frank</u> Date <u>8.6.2010</u>
9.	Application completeness approved by <u>Ashley D. Frank</u> Date <u>8.6.2010</u>
10.	Date scheduled for public hearing <u>Sept. 20. 2010</u>

RETURN COMPLETED APPLICATION TO:

Pender County
 Planning & Community Development
 P.O. Box 1519
 Burgaw, NC 28425



CONSULTING, PA

7332 Cotesworth Drive
Wilmington, NC 28405
(910) 619-9990

PLANNING - ENGINEERING - PROJECT MANAGEMENT

MEMO

To: Pender County Planning & Community Development
CC: Evans-Haines, LLC (Martin Evans)
From: Brad Sedgwick, PE
Date: 8-5-10
Re: Project Narrative

Special Use Permit Application
Project Narrative

1.71 Acres of Property Located on SE Corner of NC HWY 53 East/Shaw HWY
PIN: 3351-98-7498-0000

Location & Description of Property:

The property is located in a rural area of Pender County at the south east intersection of NC HWY 53 East and Shaw HWY. The property is bounded on the west by Shaw HWY, on the north by NC HWY 53 East, on the east by an undeveloped 60' access easement and on the south by open land owned by the property owner. The property was timbered within the last few years and currently is in a state of natural re vegetation with small pine trees and undergrowth. To the north of the property across NC HWY 53 East is a residential structure that is set off the highway approximately 100'. To the east of the property, beyond the 60' access easement is a residential structure. This residential structure is screened from the subject property with naturally occurring brush and trees.

Detailed Description of Activities on the Site:

The proposed project entails the development of a gas station convenience store/ gas station. It is anticipated that this business will be operated between the hours of 6am and 9pm. Typical activities will include local and transient traffic stopping at the store to purchase gasoline and stock up on sundry items in the store.

Description of Construction Activities:

Currently the subject property is undeveloped. As is typical for a site such as this after the approval of this special use permit a detailed site plan and permitting process will begin. All design and permitting will comply with local, state and federal requirements for this type of activity. After receipt of all approvals the site contractor will move onto the site and install all required sedimentation and erosion control BMP's. The site will be striped of the top soil and stocked piled on site. The stormwater control features will be installed in accordance with the approved plan. After these activities are completed, construction of the store structure and the parking, gas service area will take place. The construction sequence will progress until substantial completion at which time all certifications and certificates of occupancies have been received. It is anticipated that the construction activities on this site will take approximately 4 to 6 months to complete.

Utilities to Serve to Site:

Potable water for the site will be provided by means of a properly permitted and constructed well. Water usage on a site such as this is anticipated to be fairly low flow.

Sewage from the site will be handled by means of a septic tank located as shown on the preliminary site plan. Sewage disposal will be handled in the area shown on the plan. This area is owned and controlled by the same property owner that owns the subject property. Upon approval of this special use permit detailed design and permitting of the sewage system will begin

Local, State and Federal Permit Requirements:

Multiple permits will be required prior to construction on this site. Listed below are the anticipated permits required to develop this site.

Pender County Zoning Compliance

Pender County Stormwater Compliance

Pender County Building Permit for Structure

NCDENR DWQ Stormwater Permit

NCDENR LQS Sedimentation and Erosion Control Permit

NCDENR DWQ Wetland Permit

Potential Impacts of Site:

Impacts: The site is located in a rural area of the County but does have a couple of residential dwellings located nearby. Impacts on these residents may be in the form of site lighting. The site lighting will be designed to shine on the site only and minimize any fugitive light leaving the site.

Community Benefits:

The subject site is located in an underserved area of the County. The nearest gas station/convenience store to the west is located at the corner of HWY 117 and HWY 53. This intersection is approximately 7.8 miles from the site. The closest facility to the east is located at the intersection of HWY 50 and HWY 53. The distance to this facility is approximately 6.5 miles. South along Shaw HWY there is no facility of this kind.

The proposed facility will not increase the traffic load on this road as it is located too far from any intersection as to become a destination. The facility will only serve existing traffic and will allow nearby residence to save on gas because they will not have to travel to other locations to buy household goods and food.

The area has several NCWRC Boat Landings in the immediate vicinity of the proposed site. This facility will be a fantastic service to these boaters.

The facility will be a welcome addition to the tax rolls of Pender County.

Landscaping & Buffering

Final plans for the site will include a landscape plan which will be in strict accordance with the items required per Article 7 – Landscaping & Buffering of the Pender County Unified Development Ordinance as