



REQUEST FOR BOARD ACTION

ITEM NO. 18.

DATE OF MEETING: October 18, 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: This Special Use Permit request was tabled at the September 20, 2010 Pender County Board of Commissioners meeting. 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 History: This Special Use Permit request was tabled at the September 20, 2010 Pender County Board of Commissioners meeting.

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:

Nothing on this project has been submitted to the US Army Corps of Engineers. The wetlands would need to be verified and an application submitted for potential impacts.

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 October 18, 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

10/18/2010
Date

ATTEST

10/18/2010
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.