



## REQUEST FOR BOARD ACTION

ITEM NO. 14.

**DATE OF MEETING:** November 15, 2010

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

**SHORT TITLE:** Resolution to approve a Special Use Permit (SUP) for the construction and operation of a Full Service Restaurant.

**BACKGROUND:** Kenneth D. Lanier, applicant, on behalf of Admah Lanier, Jr., owner, is requesting approval of a Special Use Permit (SUP) for the construction and operation of a Full Service Restaurant (NAICS Industry Code 7221). The subject property is located at 8711 Old River Road Burgaw, NC. The property may be identified as PIN 3247-40-6450-0000. The property is currently zoned RA, Rural Agricultural District, and uses in the NAICS Sector 7221 are permitted via SUP in the RA zoning district.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the approval of a Special Use Permit for a Full Service Restaurant.

**PLANNING STAFF REPORT**  
**Special Use Permit**

14.

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**SUMMARY:**

**Hearing Date:** November 15, 2010  
**Applicant:** Kenneth D. Lanier  
**Property Owner:** Admah Lanier, Jr.  
**Case Number:** SUP 10-11-15-10 Lanier

**Land Use Proposed:** The applicant is requesting the approval of a Special Use Permit (SUP) for the construction and operation of a Full Service Restaurant (NAICS Sector 7221 – Full Service Restaurant).

**Property Record Number and Location:** The subject property is located at 8711 Old River Road Burgaw, NC. The property may be identified as PIN 3247-40-6450-0000.

**Zoning District of Property:** The property is currently zoned RA, Rural Agricultural District, and uses in the NAICS Sector 7221 are permitted via SUP in the RA zoning district.

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**PROJECT DESCRIPTION:**

The applicant, Kenneth D. Lanier is requesting the approval of a Special Use Permit (SUP) for the construction and operation of full service restaurant. This proposal would be an additional use on the subject parcel, which currently is an existing farm. Mr. Lanier would like to incorporate the restaurant into the working farm (agritourism restaurant).

The project would start with the restaurant offering a limited service style facility and then as business continued to expand the restaurant would move to a full service style to meet the growing need.

Access to the facility will be provided by an existing driveway entrance, located on Old River Road; subject to review and issuance of Driveway Permits by the NC Department of Transportation.

The applicant's proposed hours of operation for the restaurant are Tuesday through Sunday 11 AM to 8 PM; a seasonal adjustment may be needed for special events and holidays.

The applicant plans to utilize a traditional on-site septic system and public water supplied by Pender County Utilities (PCU), both subject to review and approval from Pender County Environmental Health and PCU, respectively.

The subject property does not contain any Special Flood Hazard Areas or any known Areas of Environmental Concern.

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.

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**TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:**

**Cape Fear Council of Governments RPO**

*The applicant's only transportation issue will be getting a driveway permit from NC DOT.*

**Four County Electric Company**

*No response.*

**NC DENR Division of Coastal Management**

*No comments regarding this project.*

**NC DENR Division of Forestry**

*No response.*

**NC DENR Division of Land Resources**

*No response.*

**NC DENR Division of Waste Management**

*No response.*

**NC DENR Division of Water Quality**

*No response.*

**NC DOT Division of Highways**

*Applicant will need driveway permit from NC DOT.*

**NC DOT Transportation Planning Branch**

*No response.*

**NC Office of State Archaeology**

*No response.*

**NC Wildlife Resources Commission**

*No response.*

**Pender County Building Inspections**

*No response.*

**Pender County Emergency Management**

*No response.*

**Pender County Environmental Health**

*No response.*

**Pender County Fire Marshall**

*No response.*

**Pender County Parks and Recreation**

*This would be a great addition that will be a good field trip for schools, summer camps, preschools, etc.*

**Pender County Public Library**

*No response.*

**Pender County Public Utilities**

*County water is available at this location. However, application for water service and payment of applicable fees would need to be paid prior to issuance of a building permit. County sewer is not available at this location.*

**Pender County Schools**

*No response.*

**Pender County Sheriff's Department**

*No comments.*

**Pender County Soil and Water Conservation District**

*No response.*

**Progress Energy Corporation**

*No response.*

**US Army Corps of Engineers**

*No response.*

**Wilmington Metropolitan Planning Organization**

*No response.*

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**EVALUATION:**

- A. **Public Notifications:** Advertisements for the proposal have been placed in the *Topsail Voice* and *The 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 Sector 7221 (Full Service Restaurant) are permitted in the RA zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses.
- D. **2005 CAMA Land Use Plan Compliance:** The subject property is currently classified within the Rural Cluster Area. The proposed development is consistent with this classification, as the 2005 CAMA Land Use Plan, supports home-based businesses, neighborhood service and retail businesses located within the Rural Cluster area.
- E. **2010 Comprehensive Land Use Plan Compliance:** The subject property is currently classified within the Suburban Growth area. The proposed land use is compliant with the Suburban Growth Area land use designation, as the 2010 Comprehensive Land Use Plan calls for areas classified as Suburban Growth to contain areas include medium-high density residential (single-family site-built and modular homes); limited non-residential uses - commercial, office, or public/institutional - meeting locational criteria. The Suburban Growth land use classification identifies those areas of Pender County where significant residential growth is expected to occur within the planning horizon
- F. **Existing Land Use in Area:** The existing land uses in the area are composed of: active farm lands to the north, east and south, with low-density single family residential, and vacant tracts to the west.
- G. **Site Access Conditions:** The property has direct access to Old River Road (SR 1411) via an existing driveway.
- 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 Tuesday through Sunday 11 AM to 8 PM; a seasonal adjustment may be need for special event and holidays.
  - 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**

**RESOLUTION: NOW, THEREFORE, BE IT RESOLVED**, that on November 15, 2010 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for the construction and operation of a Full Service Restaurant (NAICS Industry Code 7221), 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 \_\_\_ Blanchard \_\_\_ Brown \_\_\_ Rivenbark \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Jimmy T. Tate, Chairman                      Date

\_\_\_\_\_  
ATTEST                                      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.