



## REQUEST FOR BOARD ACTION

ITEM NO. 21.

**DATE OF MEETING:** August 15, 2011

**REQUESTED BY:** Kenneth Vafier, Senior Planner, Planning & Community Development

**SHORT TITLE:** Resolution to Approve a Special Use Permit (SUP) for the Operation of a Canoe and Kayak Rental Facility with Guide Service.

**BACKGROUND:** Phillip Andrews, applicant and owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Canoe and Kayak Rental Facility with Guide Service (NAICS Industry Code 713990). The subject property is located at 6928 Stag Park Road in Burgaw, NC. The property may be identified as Pender County PIN 3247-89-0337-0000. The property is currently zoned RP, Residential Performance District, and uses in the NAICS Sector 713990 are permitted via SUP in the RP zoning district.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the approval of a Special Use Permit for a Canoe and Kayak Rental Facility with Guide Service.

**RESOLUTION**

**RESOLUTION:** NOW, THEREFORE, BE IT RESOLVED, that on August 15, 2011 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for the operation of a canoe and kayak rental facility with guide service (NAICS Industry Codes 713990) as described herein, and the Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS \_\_\_\_\_

YEA VOTES: Brown \_\_\_ Rivenbark \_\_\_ Tate \_\_\_ Ward \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Chairman 8/15/11  
Date

\_\_\_\_\_  
ATTEST 8/15/11  
Date

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

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**SUMMARY:**

**Hearing Date:** August 15, 2011  
**Applicant:** Phillip Andrews  
**Property Owner:** Phillip Andrews  
**Case Number:** SUP 10010

**Land Use Proposed:** The applicant is requesting the approval of a Special Use Permit for the operation of a Canoe and Kayak Rental Facility with Guide Service (NAICS Sector 713990).

**Property Record Number and Location:** The subject property is located at 6928 Stag Park Road, near Burgaw, NC. The property may be identified as Pender County PIN 3247-89-0337-0000.

**Zoning District of Property:** The property is currently zoned RP, Residential Performance, and uses in the NAICS Sector 713990 are permitted via SUP in the RP zoning district.

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**PROJECT DESCRIPTION:**

Phillip Andrews, applicant and owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Canoe and Kayak Rental Facility with Guide Service (NAICS Industry Code 713990). The subject property is located at 6928 Stag Park Road in Burgaw, NC.

The applicant is proposing construction of a 30' x 70' (2,100 square feet) building which will consist of the rental office, storage of supplies, restroom facilities, and a snack bar. The property is located adjacent to Cypress Creek, a tributary which flows from this location for approximately ¼ mile until reaching the NE Cape Fear River. Canoe and kayak access will offer the opportunity to access these waterbodies for recreational use; launches will be provided at either Cypress Creek or the NE Cape Fear River, pending issuance of applicable local, state, and federal permitting requirements. In addition, the applicant proposes to offer guide services to prospective clients who paddle, hunt, and fish.

Ingress and egress to the facility will be provided directly via Stag Park Road from a gravel drive totaling approximately 400 feet in length. A driveway permit from NCDOT will be required to access Stag Park Road prior to final zoning approval. A vehicle parking area is proposed in front of the main structure. Parking, landscaping, and buffering will be reviewed to ensure compliance with each applicable section of the Pender County Unified Development Ordinance.

The applicant's proposed hours of operation will be from 1 hour before to 1 hour after daylight, or approximately 5 AM to 9 PM during peak season. It is anticipated that there will be 5 employees working on site.

A portion of the subject property adjacent to Cypress Creek is located within the AE Special Flood Hazard Area. As such, a floodplain development permit shall be obtained and applicable building code requirements followed for any proposed development within the floodplain. However, the main structure, parking, and driveway areas are all proposed to be located outside of the flood zone.

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

**Cape Fear Council of Governments RPO**

*Based on the information I have, it appears that all they would need is a driveway permit from DOT.*

**Four County Electric Company**

*No response.*

**NC DENR Division of Coastal Management**

*No response.*

**NC DENR Division of Forestry**

*No response.*

**NC DENR Division of Land Resources**

*Will need an erosion and sedimentation control plan if the land disturbance is greater than an acre.*

**NC DENR Division of Waste Management**

*No response.*

**NC DENR Division of Water Quality**

*No response.*

**NC DOT Division of Highways**

*Appears this will be a change of property use and a driveway permit will be required. D.O.T. contact is Daniel Jones or Doug Racine, 910.346.2040.*

**NC DOT Transportation Planning Branch**

*No response.*

**NC Office of State Archaeology**

*No response.*

**NC Wildlife Resources Commission**

*No response.*

**Pender County Building Inspections**

*Sounds like a great idea.*

**Pender County Emergency Management**

*No response.*

**Pender County Environmental Health**

*No response.*

**Pender County Fire Marshal**

*No response.*

**Pender County Parks and Recreation**

*No response.*

**Pender County Public Library**

*No response.*

**Pender County Public Utilities**

*We have water available up Stag Park Road to Cove Road. If a building permit is required, the applicant will be required to connect to County Water.*

**Pender County Schools**

*No response.*

**Pender County Sheriff's Department**

*No comments.*

**Pender County Soil and Water Conservation District**

*Soil & Water sees no problem with this request.*

**Progress Energy Corporation**

*No response.*

**US Army Corps of Engineers**

*No response.*

**Wilmington Metropolitan Planning Organization**

*As this proposed development occurs outside of the WMPO Urban Area, we will not be providing comment.*

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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 (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. Unified Development Ordinance Compliance:** The property is currently zoned RP, Residential Performance, and uses defined under Sector 713990 (Canoe, Kayak Rental and Guide Services) are permitted in the RP zoning district by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses. A text amendment allowing the approval of these uses via Special Use Permit was adopted by the Board of Commissioners on June 27, 2011.
- D. 2005 CAMA Land Use Plan Compliance:** The subject property contains three CAMA Land Use Classifications. The majority of the property is classified as Rural Cluster, with a small area of Rural Area and Conservation Area I in the vicinity of the floodplain. The main facility is located within the Rural Cluster area, and is consistent with this classification as the CAMA Land Use Plan states that home-based businesses, neighbor service and retail businesses are compatible uses within this classification. Proposed access points to Cypress Creek and the NE Cape Fear River are located within Conservation Area I. These points are consistent with this classification as Conservation I allows for public or private open spaces or uses requiring water access.
- E. 2010 Comprehensive Land Use Plan Compliance:** The subject property is currently classified within a Suburban Growth area. The proposed land use is consistent with the *2010 Comprehensive Land Use Plan* as the plan states that limited non-residential uses are appropriate providing the location of the use has frontage and access to a major 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. The proposed land use is also supported by the following goals and policies within the Plan:

*Goal 7A.1 – Ensure adequate, appropriately located parks, recreation, and open spaces to serve the needs of Pender County residents and visitors.*

*Policy 10A.1.8 – The County shall seek to foster a travel and tourism (including ecotourism) industry that is compatible with high quality of life as a means to facilitate diversification in the local economy.*

There do not appear to be any goals and/or policies which conflict with the proposed land use. In addition to these goals and policies, the need for increased recreational opportunities is detailed in the *2010 Pender County Comprehensive Parks and Recreation Master Plan*.

- F. Existing Land Use in Area:** The existing land use in the area is generally low density, single-family residential with areas of agricultural use. One institutional use, New Pike Creek AME Church, lies south approximately ¼ mile.
- G. Conditions To Consider In Issuing the Special Use Permit For This Project:**
1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
  2. 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.
  3. A separate permit must be obtained for any proposed signs in accordance with Article 10 of the Pender County Unified Development 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 hours of operation shall be from 1 hour before to 1 hour after daylight, or approximately 5 AM to 9 PM, depending on season.
7. All applicable local, state, and federal permits must be obtained prior to final zoning approval.

## Attachment A

### **3.12.3 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.

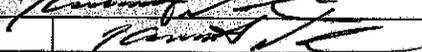
### **3.12.4 General Provisions Concerning Special Use Permits**

- 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

THIS SECTION FOR OFFICE USE			
Application No.	SUP 10010	Date	7/1/11
Application Fee	\$ 300.00	Receipt No.	107605
Pre-Application Conference	2/15/11	Hearing Date	8/15/11
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Philip Andrews	Owner's Name:	Philip Andrews
Applicant's Address:	6928 STAG PARK RD	Owner's Address:	→
City, State, & Zip	Burgaw NC 28425	City, State, & Zip	→
Phone Number:	910 259-5193	Phone Number:	→
Legal relationship of applicant to land owner: Same Person			
<b>SECTION 2: PROJECT INFORMATION</b>			
Property Identification Number (PIN):	3247-89-0337	Total property acreage:	12.3 AC.
Zoning Classification:	RP	Acreage to be disturbed:	4 AC.
Project Address:	6928 STAG PARK RD.	NAICS Code:	713990
Description of Project Location:	Open Pasture with Woods in the 7100 Plane. 300yd. to nearest neighbor.		
Describe activities to be undertaken on project site:	Construction of Canoe + Kayak Rental facilities w/storage + Rest Rooms + Parking and supply and snacks Also guides services		
<b>SECTION 3: SIGNATURES</b>			
Applicant's Signature	Philip Andrews	Date:	6/30/11
Owner's Signature	_____	Date:	
<b>NOTICE TO APPLICANT</b>			
<ol style="list-style-type: none"> <li>1. Applicant must also submit the information described on the Special Use Checklist.</li> <li>2. Applicant or agent authorized in writing must attend the public hearing.</li> <li>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.</li> <li>4. Applicant may wish to review the required findings for approval of a Special Use Permit found on page 1 of this application</li> <li>5. <b>Permit will become void after 12 months if a final zoning permit is not obtained, unless specifically requested at the time of public hearing.</b></li> </ol>			

**Office Use Only**

<input checked="" type="checkbox"/> <b>General/</b> Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input type="checkbox"/> <b>Tower over 75 Feet/</b> Fees \$500 <input type="checkbox"/> <b>Minor Revisions /</b> Fees \$ 100 <input type="checkbox"/> <b>Mining Borrow Pit/</b> Fees \$750 <input type="checkbox"/> <b>Mining Other/</b> Fees \$1000 + \$5 per acre		<b>Total Fee Calculation: \$</b> 300.00 <b>Application#:</b> SUP 10010 <b>Date of Hearing:</b> 8/15/11				
<b>Attachments Included with Application: (Please include # of copies)</b>						
CD /other digital version	<input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N	Plan Sets 20	# of large —	# of 11X17 20	Other documents/Reports	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N
<b>Payment Method:</b>	<b>Cash:</b> <input type="checkbox"/> \$ _____	<b>Credit Card:</b> <input type="checkbox"/> Master Card <input type="checkbox"/> Visa		<b>Check:</b> <input checked="" type="checkbox"/> Check # 13474		
Application received by:					Date:	7/1/11
Application completeness approved by:					Date:	7/1/11

**SPECIAL USE PERMIT CHECKLIST**

<input checked="" type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<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)
<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"/>	<b>Project Narrative</b> --Written description of the project ( <u>max of 3 pages</u> ) including the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> Location of the project and type of access to project site</li> <li><input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc.</li> <li><input type="checkbox"/> Description of all construction activities to be undertaken on the site</li> <li><input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers</li> <li><input type="checkbox"/> List of all state and federal permits that will be required for the project</li> <li><input 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.</li> </ul>
<input checked="" type="checkbox"/>	<b>Project Map(s)</b> --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: <ul style="list-style-type: none"> <li><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.</li> <li><input checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road.</li> <li><input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property.</li> <li><input type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries.</li> <li><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.</li> <li><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.</li> <li><input checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 6, Pender County UDO)</li> <li><input checked="" type="checkbox"/> Landscaping and buffering (See Article 7, Pender County UDO)</li> <li><input checked="" type="checkbox"/> All signs to be located on the property (See Article 9, Pender County UDO)</li> <li><input type="checkbox"/> Pedestrian walks, area lighting and flood lighting.</li> <li><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 &amp; known or designated wetlands on the site.</li> <li><input checked="" type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site.</li> <li><input checked="" type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted.</li> <li><input checked="" type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.</li> </ul>

**RETURN COMPLETED APPLICATION TO:**  
 Pender County Planning & Community Development  
 P.O. Box 1519  
 Burgaw, NC 28425

June 30, 2011

Our family proposes to build a facility from which we will rent canoes and kayaks. We will also offer guide services to prospective clients who paddle, hunt and fish. We will be open from 1 hour before to 1 hour after daylight. More specifically, 5 am to 9 pm. There will be a total of 5 employees. The facility will be accessible from STAG PARK ROAD. It will provide parking, storage, rentals restroom and supplies to support these activities. It will have water and septic systems.

Launching will take place on the Cypress Creek or the N.E. Cape Fear River. All required state

and county permits will be obtained before any construction will begin. The parcel is an open meadow with timber along the water. Federal permits do not pertain.

Potential impact to the neighbors and surrounding parcels will be low. The nearest property owner is 300 yards. Noise will be at a minimum due to the nature of the activities.

This facility should be a positive impact to the citizens of Pender County. Offering much needed access to the N.E. Cape Fear River and providing services that in turn will increase awareness and the interest in helping protect this natural resource.

# Property Owners

- Hayden Baldwin  
263 Oxbow Landing Rd.  
Burgaw, N.C. 28425
- Alton Chafin  
44 Broadwater Ln.  
Burgaw, N.C. 28425
- Kent Harrell  
217 Oxbow Landing Rd.  
Burgaw, N.C. 28425
- Louis Faircloth  
349 Oxbow Landing Rd.  
Burgaw, NC 28425
- Stacy Kirk  
347 Oxbow Landing Rd.  
Burgaw, N.C. 28425
- Jan Bowen  
318 Oxbow Landing Rd.  
Burgaw, N.C. 28425

Property Owners (Cont.)

Austin Williams

505 S. McNeil St.

Burgaw, N.C. 28425