



REQUEST FOR BOARD ACTION

ITEM NO. 23.

DATE OF MEETING: August 15, 2011

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

SHORT TITLE: Request a Zoning Map Amendment to Rezone Two Tracts Zoned RP, Residential Performance District, to GB, General Business District.

BACKGROUND: Michael Nadeau, applicant, on behalf of Robert Shepard Sr. Heirs, owners, is proposing a Zoning Map Amendment for a general use rezoning of 17.8 acres from RP, Residential Performance District to GB, General Business District. The rezoning includes two tracts which are identified as PINs: 4214-29-1485-000L and 4215-20-2036-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the request to rezone 17.8 acres from RP, Residential Performance District to GB, General Business District.

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: August 15, 2011- Board of Commissioners
July 12, 2011 – Planning Board

Application Number: ZMA 11-07-05-04 Nadeau

File Number: 10005

Applicant: Michael Nadeau

Property Owner: Robert Shepard Sr. Heirs

Rezoning Proposal: The request consists of rezoning two tracts from RP, Residential Performance District to GB, General Business District.

Property Record Numbers, Acreage, and Location: The property consists of two tracts which are identified as PINs: 4214-29-1485-000L and 4215-20-2036-0000. The total area is 17.8 acres. The property is located at 166 Andrew Jackson Road, Hampstead, NC.

Staff Recommendation: Staff respectfully recommends approval of the request.

DESCRIPTION:

Michael Nadeau, applicant, on behalf of Robert Shepard Sr. Heirs, owners, is proposing a Zoning Map Amendment for a general use rezoning of 17.8 acres from RP, Residential Performance to GB, General Business. The rezoning includes two tracts which are identified as PINs: 4214-29-1485-000L and 4215-20-2036-0000.

The property is approximately 600 feet off of US Highway 17, adjacent to Andrew Jackson Road; a private access easement. There are two abandoned residential structures located on the property. If the property is rezoned to General Business district, the residential structures will be considered non-conforming and the use discontinued after a period of 180 days.

Any future proposed development would require access on Andrew Jackson Road to be improved to North Carolina Department of Transportation minimum construction standards. Currently, Andrew Jackson Road is on privately owned property.

The applicant has stated a desire to allow the property to be utilized for a greater variety of commercially-oriented uses and that the rezoning from RP to GB would be in harmony with the surrounding parcels currently zoned GB.

This is a general use rezoning which will encompass all uses permitted-by-right in the General Business District, as shown on the Permitted Use Table 5.2.3 of the Pender County Unified Development Ordinance. The General Business District is primarily intended to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses.

EVALUATION:

- A) Public Notifications:** Public Notice of the proposal for map change has been advertised in the Pender Post and Topsail Voice. Adjacent property owners have been given written notice of the request.
- B) Existing Zoning in Area:** The zoning of the adjacent parcels are a mix of commercial and residential zoning districts. The parcels to the north of the subject parcel are zoned General Business.
- C) Existing Land Use in Area:** The existing land use in the area includes residential, office and institutional, commercial and vacant, undeveloped tracts.
- D) 2005 CAMA Land Use Plan Compliance:**
1. The 2005 CAMA Land Use Plan classifies the subject property as Urban Growth, which recommends the continued development of areas provided with water and/or sewer services or where the county is actively engaged in planning these community services. These areas also have excellent access to the regional transportation system for a mixture of more intensive commercial and industrial or job creating uses and a range of residential land uses and housing types.
 2. The subject parcel also contains areas classified as Conservation Area II by the 2005 Plan. This classification is given to areas that may impact public health or areas where there are significant development limitations, as is the case at the subject parcel. The Conservation Area II areas on the subject parcel suggest the presence of non-coastal wetlands (404 Jurisdictional wetlands), and any development in these areas must adhere to all application local, state, and federal regulations.
- E) 2010 Comprehensive Land Use Plan Compliance:** The 2010 Comprehensive Land Use Plan classifies the subject property as Mixed Use, which is a land use classification designating locations where a mixture of higher density/intensity uses are to be encouraged.

The following Comprehensive Land Use Plan Policies support the request:

Growth Management Goal 1A.1

Manage the physical growth and development of Pender County by promoting more intensive land uses in key locations identified for such growth while preserving and protecting the unique physical character and social assets of the predominant rural lifestyle and coastal environment that makes the County a unique place to live.

Policy 1A.1.2: Encourage development in areas where the necessary infrastructure – roads, water, sewer, and schools - are available, planned or can be most cost effectively provided and extended to serve existing and future development.

- The proposal is located within 600 feet of US Highway 17, approximately 1500 feet from the Un-signalized Superstreet Intersection of Sloop Point Road/Old Whitfield Road and US Highway 17.
- Pender County Utilities supplies water in the area and connection to the PCU system will be required at the time of development; any development proposal will be required to have an approved wastewater disposal method.
- Because residential development is not permitted in the General Business District, Pender County Schools will not be directly impacted.

Policy 1A.1.5: The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

- The rezoning request would allow for accommodation of by-right business uses in an area focused for commercial and mixed use development. Any specific development proposal would be reviewed for impacts to the area, including impacts to environmental resources.

Coastal Pender Goal 4A.1

The primary goal of the Coastal Pender Small Area Plan is to direct higher density residential and mixed use growth toward the Scotts Hill area, closer to the New Hanover/ Wilmington metro area. Development can be expected to continue in the Hampstead community but growth is to be focused more towards the southeastern edge of the Coastal Pender area. Coordinating future growth with the adjacent local governments of Surf City to the north and New Hanover County to the south and east are of prime importance.

Large scale developments should expect to be supported by public utilities and closely evaluated through coordinated development plan review. Commercial, office and mixed used infill, re-development of existing sites and development of new sites are expected to continue as market forces permit along the US Highway 17 corridor in Hampstead.

New land use proposals and approvals should closely consider the status of future transportation projects such as the US Highway 17 / Hampstead Bypass. Development should be encouraged and/or required to protect and support the integrity of historical and cultural sites within the area.

- While no specific development proposal has been presented, approval of the rezoning request would accommodate certain by-right business uses in an area focused for commercial and mixed use development along the Highway 17 Corridor.

Economic Development Goal 10A.1

Promote economic development which meets the needs of the County for expanding the non-residential tax base and providing well-paying jobs

The following Comprehensive Land Use Plan Policy needs special consideration:

Natural Resources Protection Goal 6A.1

Ensure that natural resources are maintained or enhanced as development occurs.

Policy 6A.1.2: Consider regulations that restrict or limit development in flood hazard areas, wetlands, and other identified hazardous or natural resource areas.

- The site plan submitted by the applicant shows US ACE approved wetland delineation dated March 2, 2009. Any future development will be subject to the permit requirements of Sections 401 and 404 of the Clean Water Act.

F) Unified Development Ordinance Compliance: Article 3.3.8 of the Unified Development Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for rezoning can be made. The proposed rezoning meets the standards of Article 3.3.8 of the Unified Development Ordinance.

G) Summary & Staff Recommendation: The proposal consists of a Zoning Map Amendment for general use rezoning of 17.8 acres. The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is also consistent with the 2005 CAMA Land Use Plan and the 2010 Comprehensive Land Use Plan. Therefore, staff respectfully recommends that the request be approved.

3.3.8 Review Criteria for Rezoning

The Planning Board and Board of Commissioners shall consider the following matters in considering a rezoning request:

- A. *Whether the range of uses permitted by the proposed change would be appropriate to the area concerned (including not being detrimental to the natural environment, not adversely affecting the health or safety of residents or workers in the area, not being detrimental to the use or development of adjacent property, and not materially or adversely affecting the character of the general neighborhood);*
- B. *Whether adequate public facilities/services (i.e., water, wastewater, roads) exist, are planned, or can be reasonably provided to serve the needs of any permitted uses likely to be constructed as a result of such change;*
- C. *Whether the proposed change is consistent with the County's Comprehensive Land Use Plan and CAMA Land Use Plan or any other adopted land use document.*
- D. *Whether the proposed amendment is reasonable as it relates to the public interest.*

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

The site appears to be in the MPO's jurisdiction.

Four County Electric Company

No response.

NC DENR Division of Coastal Management

The application references Mike's Branch as the eastern property boundary. The applicant should be aware that if Mike's Branch is determined to be tidal and/or navigable (including by canoe or kayak), a portion of the property will fall under CAMA jurisdiction. Any proposed development within a CAMA Area of Environmental Concern (AEC) would require a permit from the Division of Coastal Management.

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

Depending on development, possible roadway improvements on US 17.

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 Marshal

No response.

Pender County Parks and Recreation

No response.

Pender County Public Library

No response.

Pender County Public Utilities

No comment.

Pender County Schools

It does not appear that this project will have any impact on Pender County Schools

Pender County Sheriff's Department

No response.

Pender County Soil and Water Conservation District

Sees no problem with this request.

Progress Energy Corporation

No response.

US Army Corps of Engineers

No response.

Wilmington Metropolitan Planning Organization

This development occurs outside of the WMPO area.

VOTING AND RESOLUTION:

Planning Board

Motion: Williams Seconded: Garrett

Approved: X Denied: _____ Unanimous: X

Boney: X Smith: X Edens: X Garrett: X Marshburn: X Millette: X Williams: X

File #: 10005

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA 11-07-05-04	Date	May 12, 2011
Application Fee	\$ 630.00	Receipt No.	107577
Pre-Application Conference	4.11.2011	Hearing Date	PB 7/5/11 / ^{80cc} 8/15/11

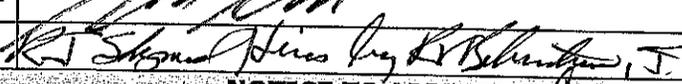
SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Michael Nadeau	Owner's Name:	Robert Shepard Sr. Heirs
Applicant's Address:	PO Box 56	Owner's Address:	c/o Biberstein & Nunalee 102 S. Walker
City, State, & Zip	Hampstead, NC 28443	City, State, & Zip	Burgaw, NC 28425
Phone Number:	620-1237	Phone Number:	259-2175 x14
Legal relationship of applicant to land owner: Agent			

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	4214-29-1485 & 4215-20-2036	Total property acreage:	17.8
Current Zoning District:	RP	Proposed Zoning District:	GB
Project Address :	166 Andrew Jackson Road, Hampstead, NC 28443		
Description of Project Location:	Just south of Sloop Point Road and Hilltop Grocery		

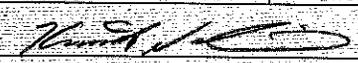
SECTION 3: SIGNATURES

Applicant's Signature		Date:	5/11/11
Owner's Signature		Date:	5-11-11

NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Rezoning Checklist.
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 Planning Board or other authorized person agrees to table or delay the hearing.
4. All fees are non-refundable.
5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda.

Rezoning/Zoning Map Amendment Checklist

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	A list of names and addresses, as obtained from the county tax listings and tax abstract, all adjacent property owners, including property owners directly across any road or road easement, and owners of the property under consideration for rezoning.
<input checked="" type="checkbox"/>	Two (2) business size envelopes legibly addressed with first class postage for each of the adjacent and abutting property owners on the above list.
<input checked="" type="checkbox"/>	Accurate legal description or a map drawn to scale showing the property boundaries that are to be rezoned, in sufficient detail to for the rezoning to be located on the Official Zoning Map.
<input checked="" type="checkbox"/>	18 (11"x17") map copies to be distributed to the Planning Board
<input checked="" type="checkbox"/>	20 (11"x17") map copies to be distributed to the Board of Commissioners
<input checked="" type="checkbox"/>	Digital (.pdf) submission of all application materials
<input checked="" type="checkbox"/>	A description and/or statement of the present and proposed zoning regulation or district boundary and stating why the request is being made and any information that is pertinent to the case. If the owner and applicant are different, the letter must be signed by both parties.
Office Use Only	
<input checked="" type="checkbox"/>	ZMA Fees: (\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter) Total Fee Calculation: \$ <u>670.00</u>
Attachments Included with Application: (Please include # of copies)	
CD /other digital version	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Plan Sets	<input checked="" type="checkbox"/>
# of large	
# of 11x17	<u>18 / 20</u>
Other documents/Reports	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N
Payment Method:	Cash: <input type="checkbox"/> \$ _____
	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa
	Check: <input checked="" type="checkbox"/> Check # <u>1609</u>
Application received by:	
	Date: <u>5/12/11</u>
Application completeness approved by:	
	Date: <u>5/12/11</u>
Dates scheduled for public hearing:	
<input checked="" type="checkbox"/> Planning Board:	<u>7/5/11</u>
<input type="checkbox"/> Board of Commissioners:	<u>8/15/11</u>

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

Print Form

REZONING SUMMARY

**Shepard-Sidbury Tract
166 Andrew Jackson Road
Hampstead, NC 28443**

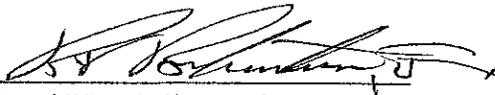
We are requesting this parcel be rezoned from Residential Performance (RP) to General Business (GB).

All of the adjacent properties to the north (R. Shepard, H. Shepard and E. Sidbury) are currently zoned General Business and form a commercial enclave of about 10 acres.

This 17.8 acre tract is bordered on the east by Mike's Branch. The flood plain along the creek boundary creates 9 acres of 404 wetlands, which completely buffers the high ground from all properties to the east.

With this rezoning, all the adjoining tracts will be zoned commercial, enhancing the existing businesses and expanding their future potential.

R.J. Shepard Sr. Heirs

By: 

Richard Von Biberstein

Commissioner


Michael Nadeau, Agent and
Applicant

5/11/11

STATEMENT OF WORK
 10/27/07
 10/27/07
 10/27/07

- NOTES:**
1. This map is a preliminary map and is not to be used for legal purposes.
 2. The boundaries shown on this map are based on the best available information.
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 25. The boundaries shown on this map are based on the best available information.

No guarantee is made by the State of North Carolina as to the accuracy of the information shown on this map.

DESCRIPTION OF RECOMBINATION BY SECTIONS OF LAND
 RECOMBINATION OF LAND IN THE COUNTY OF...
 MAP NO. 10/27/07
 10/27/07
 10/27/07

COURSE & DISTANCE

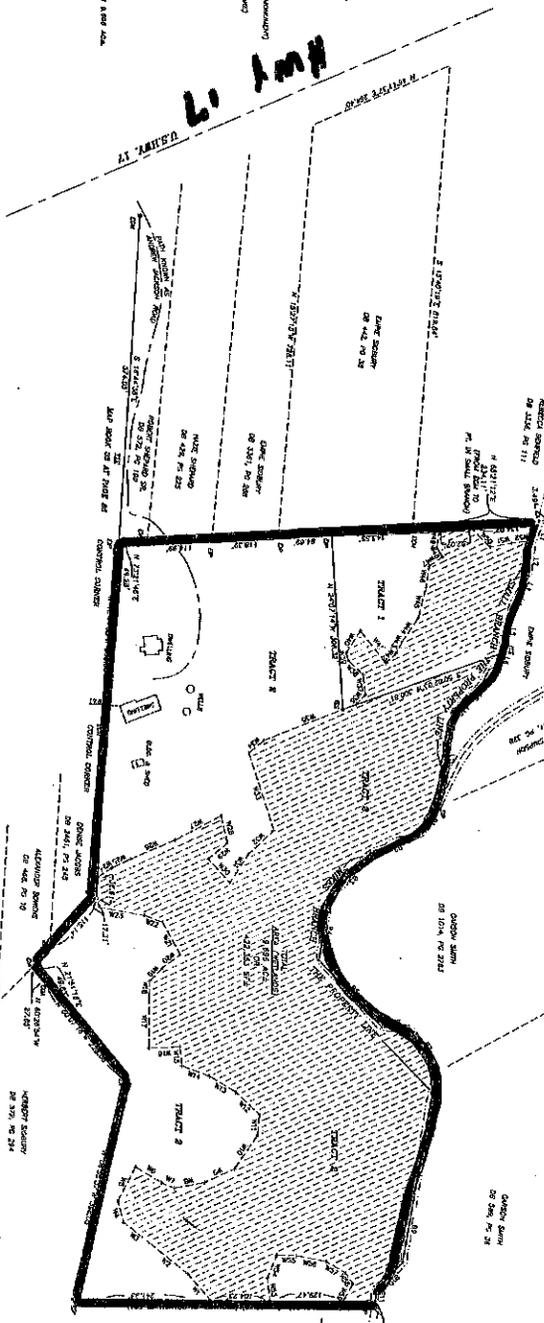
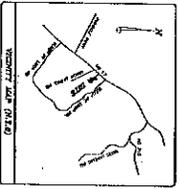
Course	Distance
1	100.00
2	100.00
3	100.00
4	100.00
5	100.00
6	100.00
7	100.00
8	100.00
9	100.00
10	100.00
11	100.00
12	100.00
13	100.00
14	100.00
15	100.00
16	100.00
17	100.00
18	100.00
19	100.00
20	100.00
21	100.00
22	100.00
23	100.00
24	100.00
25	100.00

TOTAL AREA:
 1,234 ACRES TOTAL
 1,234 ACRES TOTAL
 1,234 ACRES TOTAL

COURSE & DISTANCE

Course	Distance
1	100.00
2	100.00
3	100.00
4	100.00
5	100.00
6	100.00
7	100.00
8	100.00
9	100.00
10	100.00
11	100.00
12	100.00
13	100.00
14	100.00
15	100.00
16	100.00
17	100.00
18	100.00
19	100.00
20	100.00
21	100.00
22	100.00
23	100.00
24	100.00
25	100.00

PROPOSED COURSE
 Proposed course will be based on the best available information.
 Proposed course will be based on the best available information.
 Proposed course will be based on the best available information.



COURSE & DISTANCE

Course	Distance
1	100.00
2	100.00
3	100.00
4	100.00
5	100.00
6	100.00
7	100.00
8	100.00
9	100.00
10	100.00
11	100.00
12	100.00
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16	100.00
17	100.00
18	100.00
19	100.00
20	100.00
21	100.00
22	100.00
23	100.00
24	100.00
25	100.00

MAP OF RECOMBINATION
FOR
ROBERT SHEPARD SR.
AND
EMPIRE SIDBURY

Typical Township - Orange County - North Carolina
 SCALE 1" = 100'
 GRAPHIC SCALE - 100'

Conditions of Recombination and Jurisdiction
 This map is a preliminary map and is not to be used for legal purposes.
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EMPIRE SIDBURY
 10/27/07
 10/27/07

