



REQUEST FOR BOARD ACTION

ITEM NO: 13.

DATE OF MEETING: October 17, 2011

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

SHORT TITLE: Resolution to Approve a Special Use Permit (SUP) for the Operation of a Cottage Occupation.

BACKGROUND: Jeffery Rudolph, applicant and owner, is requesting approval of a Special Use Permit (SUP) for the operation of a Cottage Occupation for the use of Automobile Repair within an existing accessory building (detached garage), located at 130 Gillcup Trail, off of US Highway 17 in Hampstead. The property may be identified as Pender County PIN 4215-57-7944-0000 and is zoned RP, Residential Performance District. Cottage Occupations 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 Cottage Occupation.

RESOLUTION

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on October 17, 2011 the Pender County Board of Commissioners (approved, modified, denied) a Resolution to approve a Special Use Permit (SUP) to allow the operation of a cottage occupation 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 ___ Tate ___ Rivenbark ___ Ward ___ Williams ___

Chairman 10/17/2011
Date

ATTEST 10/17/2011
Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: October 17, 2011

Applicant: Jeffery Rudolph

Property Owner: Same

Case Number: 10066

Land Use Proposed: Jeffery Rudolph, applicant and owner, is requesting approval of Special Use Permit (SUP) for the operation of a Cottage Occupation for the use of Automobile Repair within an existing accessory building (detached garage)

Property Record Number and Location: The subject property may be identified as PIN: 4215-57-7944-0000 and is located at 130 Gilleup Trail, off of US Highway 17 in Hampstead.

Zoning District of Property: The property is currently zoned RP, Residential Performance District and according to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses, Cottage Occupations are permitted via SUP in the RP, Residential Performance District.

Project History: The Special Use Permit application was submitted as a result of a zoning violation. On July 13, 2011, a Notice of Violation was issued for the operation of an automobile repair business within the RP, Residential District.

PROJECT DESCRIPTION:

The applicant is requesting a Special Use Permit for a Cottage Occupation. According to the Pender County Unified Development Ordinance, Cottage Occupations are permitted via SUP in the RP, Residential Performance District. Mr. Rudolph would like to repair automobiles in an accessory building (detached garage) behind the existing residential structure on the subject property.

Appendix A of the Pender County Unified Development Ordinance defines Cottage Occupations as;
A use conducted for the generation of revenue in an accessory structure located on the same lot or tract as a dwelling. The use must: be clearly incidental and secondary to the use of the property for residential purposes; not change the character of the structure or area; or have any exterior evidence of the occupation. Cottage Occupations are intended to be limited to low intensity uses that produce or repair a product, but can be operated in such a way that they do not adversely affect adjacent properties.

According to §5.3.3.B of the UDO; *Cottage Occupations shall be permitted in zoning districts as indicated in Section 5.2.3 Table of Permitted Uses, via Special Use Permit. The following criteria must be met in order to apply for the cottage occupation*

- 1) The floor area of the cottage occupation cannot exceed the total floor area of the primary residence.*
- 2) No cottage occupation shall be permitted which creates objectionable noise, dust, smoke, odor, glare, or traffic attraction greater than that of other residential properties in the vicinity.*
- 3) Workers not living on the property shall be limited to three persons per day.*

The applicant is proposing that the cottage occupation use of automobile repair will meet the guidelines as outlined in the Pender County Unified Development Ordinance. According to the applicants narrative the garage is not visible from the surrounding properties or roadway. The total square footage of the residence as shown on the applicant's site plan is 744 square feet; the detached garage is shown as 696 square feet.

Access to the facility will be provided via an existing driveway along Gillcup Trail, which is a private road.

The applicant's proposed hours of operation are from Monday through Saturday, 8 AM until 6 PM and Sunday by appointment.

The subject property is not located within the Special Flood Hazard Area (SFHA).

Prior to the issuance of zoning approval and building permits; a Site Development Plan must be submitted and approved in accordance with Articles 3.6 and 6.3. A part of this review will include compliance with Article 8, 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, regulations in effect or any additional conditions imposed on this SUP.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	CB	OI	IT	GI	EC
ACCESSORY USES AND STRUCTURES											
Cottage Occupations		S	S	S		S					

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 revision and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. *Unified Development Ordinance Compliance:*** The property is currently zoned RP, Residential Performance District, and Cottage Occupations are permitted by Special Use Permit, as prescribed by the Pender County Unified Development Ordinance, Section 5.2.3 Table of Permitted Uses.
- D. *2005 CAMA Land Use Plan Compliance:*** The subject property is currently classified within the Urban Growth Area.
1. *This land classification provides for 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. It is focused on the Rocky Point area and the Highway 17 Corridor.*
- E. *2010 Comprehensive Land Use Plan Compliance:*** The subject property is currently classified within the Pender County Mixed Use Area.
1. The Mixed Use land use classification designates locations where a mixture of higher density/intensity uses is to be encouraged. Mixed Use areas should be characterized by physically and aesthetically unified developments containing a mixture of commercial, office, institutional, and high- and medium-density residential uses, arranged in a walkable, compact, pedestrian and transit friendly manner.
 2. Mixed Use areas are intended to help reduce sprawl by concentrating a mix of uses in convenient locations; by promoting an efficient sustainable pattern of land uses, and by providing most of the goods and services needed by residents in a coordinated, concentrated manner. Mixed Use areas are intended to reduce the number and length of auto trips by placing higher-density housing close to shopping and employment center. They also should function to improve the quality of life for residents living in higher density housing by placing daily conveniences, shops, and employment within walking distance.
 - a. Comprehensive Land Use Plan Policies:

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.
- F. *Existing Land Use in Area:*** The existing land uses in the area are composed of: Holly Shelter Game Lands to the north, vacant tracts towards the east and south, and low density single family residential towards the west.
- G. *Site Access Conditions:*** The property has direct access to Gillcup Trail, which is a private road.
- 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. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
 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 effect for the duration of this permit
6. The project shall be developed and maintained in accord with the conditions contained in this permit. Prior to the issuance of a zoning approval and building permits; a Site Development Plan must be submitted and approved, in accordance with Articles 3.6 and 6.3.
7. The sale of vehicles or parts shall be prohibited.
8. The hours of operation from Monday through Saturday 8 AM until 6 PM and Sunday by appointment only.
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. No display of products shall be visible from the street.
11. Privacy fencing shall be provided and maintained along the property and or project boundary to limit the view from adjacent property owners and along the street view on Gillcup Trail.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

This property appears to be in the territory of the RPO. Due to likely limited impact of this activity I have no comments.

Four County Electric Company

No response.

NC DENR Division of Coastal Management

No comment on this one.

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

Gillcup Tr. Is non-system, no comments on this one.

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

We don't have any problems with this SUP.

Pender County Environmental Health

No response.

Pender County Fire Marshall

No response.

Pender County Parks and Recreation

Parks and Recreation has no issues with this request.

Pender County Public Library

No response.

Pender County Public Utilities

No comment.

Pender County Schools

This project will not present any problems for Pender County Schools.

Pender County Sheriff's Department

No response.

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

The WMPO is neither in favor nor against this proposal. The portion of HWY 17 that intersects with Gillicup Trail is located outside of the scope of the HWY17/NC210 Corridor Study.

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.
- C. Revisions - Major revisions to a Special Use Permit must be submitted to the Board of Commissioners. All legal notice and application fee requirements must be met for major revisions. Revisions that are considered minor revisions to an approved Special Use Permit may be reviewed and approved by the Administrator after basic submission requirements have been completed. All revisions approved by the Administrator must meet the original conditions of the permit as approved by the County Commissioners and current provisions of the Zoning Ordinance. The addition of an accessory structure less than 1000 sq. ft., addition of parking or other ancillary facilities or uses or the addition of similar product lines are examples of revisions that may be considered minor revisions.

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE			
Application No.	SUP # 10066	Date	8.17.2011
Application Fee	\$ 300 + Mailings	Receipt No.	Per Hampstead Annex
Pre-Application Conference	N/A	Hearing Date	10.17.2011

SECTION 1: APPLICANT INFORMATION

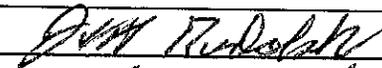
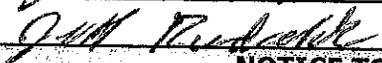
Applicant's Name:	JEFFREY L. RUDOLPH	Owner's Name:	SAME
Applicant's Address:	268 SEAMARK DR. SURF CITY, N.C. 28445	Owner's Address:	SAME
City, State, & Zip		City, State, & Zip	
Phone Number:	910-228-1996	Phone Number:	SAME

Legal relationship of applicant to land owner:

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	4215-57-17944-0000	Total property acreage:	2.66
Zoning Classification:		Acreage to be disturbed:	NONE
Project Address:	130 GILLOUPT L.	NAICS Code:	
Description of Project Location:	HWY. 17 SOUTH NEAR LOWES		
Describe activities to be undertaken on project site:	MAINTAIN AUTO'S		

SECTION 3: SIGNATURES

Applicant's Signature		Date:	8-17-11
Owner's Signature		Date:	8-17-11

NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Special Use 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 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 found on page 1 of this application.
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.**

PIN # 4215-57-7944-0000

JEFF RUDOLPH

17 AUG. 2011

PROJECT NARRATIVE

1. 130 Gillcup Trail (unpaved)
Hampstead, NC 28443
Access by automobile via unpaved driveway
2. The activities to be undertaken at this site are as follows:
 - A. maintenance and repair of personal cars, including classic automobiles.
 - B. an occasional maintenance and repair of cars for friends or family member.

→ The hours of operation include any day of the week or no days. No operation will take place evenings or late nights.

J.R.
M-Saturday 8-6 ; Sunday by appointment
The operation is owned and operated by land owner, Jeff Rudolph.
There are no other employees.

3. The property currently houses one mobile home and one metal building.
All county and state permits were approved and in effect.
There will be no new construction.
4. All utilities are already in place and have been approved at the time of construction. No other changes necessary
5. State and county permits were issued and are in effect.
No Federal permits required.
6. This workshop has been in existence for a number of years.
It has no negative impact on said property or adjacent property.
The building is remote and not visible to surrounding properties or road front.
All debris is disposed of in proper manner. (county waste sites or recycled)
Traffic is not a potential problem, as most vehicles belong to property Owner, with only an occasional visitor to the site.