



REQUEST FOR BOARD ACTION

ITEM NO. 14.

DATE OF MEETING: October 17, 2011

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

SHORT TITLE: Request a Zoning Map Amendment to Rezone Two Tracts from PD, Planned Development, to RA, Rural Agricultural.

BACKGROUND: Mark Walton ,Walton Engineering, applicant, on behalf of Buyers Brokers and Consultants Inc, owner, is requesting approval of a Zoning Map Amendment for a general use rezoning of two tracts totaling 721.76 acres from PD, Planned Development District, to RA, Rural Agricultural District. The property is located at on the south side of Island Creek Road along the Pender County, New Hanover County Line in Scotts Hill and may be identified as Pender County PINs 3262-25-8994-0000 and 3262-69-4150-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a request for a Zoning Map Amendment for a general use rezoning of two tracts totaling 721.76 acres from PD, Planned Development District, to RA, Rural Agricultural District.

RESOLUTION NOW, THEREFORE, BE IT RESOLVED that

on October 17, 2011, the Pender County Board of Commissioners (approved, modified, denied) a rezoning request for property as described herein. The Chairman and County Manager is authorized to execute any documentation necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Brown _____ Tate _____ Rivenbark _____ Ward _____ Williams _____

George R. Brown, Chairman

10/17/2011
Date

ATTEST

DATE

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: September 13, 2011- Planning Board
October 17, 2011- Board of Commissioners
Case Number: 10035- Walton (ZMA)
Applicant: Mark Walton, Walton Engineering
Property Owner: Buyers Brokers and Consultants Inc.

Rezoning Proposal: The applicant is proposing a Zoning Map Amendment for a general use rezoning of 721.76 acres from PD, Planned Development District, to RA, Rural Agricultural District.

Property Record Numbers, Acreage, and Location: The property is located at on the south side of Island Creek Road along the Pender County, New Hanover County Line in Scotts Hill and may be identified as Pender County PINs 3262-25-8994-0000 and 3262-69-4150-0000.

Planning Board Recommendation: The Pender County Planning Board, at the October 4, 2011 meeting, with a 5-1 voted passed a motion recommending approval of this request.

Staff Recommendation: Staff respectfully recommends approval of the request.

DESCRIPTION:

Mark Walton, Walton Engineering, applicant, on behalf of Buyers Brokers and Consultants Inc, owner, is requesting approval of a Zoning Map Amendment of a general use rezoning for two tracts totaling 721.76 acres from PD, Planned Development District, to RA, Rural Agricultural District. The property is located on the south side of Island Creek Road along the Pender County, New Hanover County Line in Scotts Hill and may be identified as Pender County PINs 3262-25-8994-0000 and 3262-69-4150-0000.

The tract identified as PIN 3262-25-8994-0000, 699.38 acres, was initially rezoned from RA, Rural Agricultural and FA, Flood Hazard Area to PD, Planned Development on June 19, 2006 by the Pender County Board of Commissioners. This tract is currently a part of the East Haven Master Development Plan which was approved by the Pender County Planning Board on August 1, 2006. This same tract was also shown as a part of the East Haven Phase I Preliminary Plat which was conditional approved by the Planning Board November 8, 2006.

The tract identified as 3262-69-4150-0000, is not a part of the East Haven Master Plan and was rezoned to PD, Planned Development in a mapping error in 2006. Staff researched the minutes from the East Haven rezoning and this tract was not a part of the initial rezoning in 2006.

The property has direct access to Island Creek Road; any future proposed development would require NC DOT Driveway permit.

Located on the subject property are AE and the AEFW Special Flood Hazard Areas (SFHA) along Island Creek and the adjacent tributaries, according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number 3720325200K, Panel Number 3252 and 3720326200K, Panel Number 3262. Any new development must

comply with the National Flood Insurance Rate Program (NFIP) in accordance with the Pender County Unified Development Ordinance, Article 9, Flood Damage Prevention.

This is a general use rezoning which will encompass all uses permitted-by-right in the Rural Agricultural District, as shown on the Permitted Use Table 5.2.3 of the Pender County Unified Development Ordinance. The Rural Agricultural District is intended to accommodate non-residential agricultural uses and very low density residential development (minimum of 1 du/ac), as well as limited non-residential uses, in rural areas adjacent to agricultural operations.

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. As well as a sign placed on the subject property.
- B) Existing Zoning in Area:** The zoning of the adjacent parcels are a mix of RA, Rural Agricultural District and PD, Planned Development. The property also shares a boundary with New Hanover County; the zoning along the county line is R-15 and I-2 and is under the New Hanover County Planning and Zoning jurisdiction. The parcels adjacent to Island Creek Road along the northern boundary of the property are RA, Rural Agricultural District, along with the tracts towards the northeast/ east; towards the southeast and southern boundary PD, Planned Development (the East Haven Master Development Plan); and toward the west are RA, Rural Agricultural District in Pender County and R-15 and I-2 in New Hanover County.
- C) Existing Land Use in Area:** The existing land use in the area includes low density residential (Cliff Wood Estates) and vacant tracts to the north. Along the eastern boundary is a timber tract. The southern boundary adjoins the tract associated with the East Haven Master Plan, which is also vacant. Finally to the west is a timber tract and vacant industrial tract located within the New Hanover County Planning Jurisdiction.
- D) 2005 CAMA Land Use Plan Compliance:** The 2005 CAMA Land Use Plan classifies the subject property in three (3) Land Use Classifications; Urban Growth Area, Conservation I and Conservation II.
- E) 2010 Comprehensive Land Use Plan Compliance:** This property is located in the Coastal Pender Study Area and 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.
- 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.

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.*

G) Summary & Staff Recommendation: This proposal consists of Zoning Map Amendment of a general use rezoning for two tracts totaling 721.76 acres from PD, Planned Development District, to RA, Rural Agricultural District. Following approval of the zoning map amendment request, staff shall proceed with an amendment to the 2010 Comprehensive Land Use Plan to be in compliance with the rezoning as stated in North Carolina General Statutes § 153A-341. The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is consistent with the 2005 CAMA Land Use Plan and is not in conflict with 2010 Comprehensive Land Use Plan. Therefore, staff respectfully recommends that the request be approved. The Pender County Planning Board, with a 5-1 vote passed a motion recommending approval; therefore, staff respectfully recommends that the request be approved.

VOTING AND RESOLUTION:

Planning Board

Motion: Garrett Seconded: Edens

Approved: X Denied: _____ Unanimous: _____

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

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

No response.

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

No response.

NC DENR Division of Waste Management

Based on my review of the request I found no environmental concerns.

NC DENR Division of Water Quality

No response.

NC DOT Division of Highways

No response.

NC DOT Transportation Planning Branch

We have no problem with the rezoning. Any development or change of use will require a driveway permit.

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 issues with this request.

Pender County Public Library

No response.

Pender County Public Utilities

No Comment.

Pender County Schools

We have no comments.

Pender County Sheriff's Department

No comment.

Pender County Soil and Water Conservation District

No response.

Progress Energy Corporation

No response.

US Army Corps of Engineers

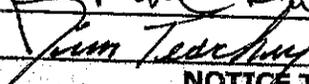
No response.

Wilmington Metropolitan Planning Organization

The WMPO takes no exception to this proposed request for rezoning.

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APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA 10035 - Walton	Date	7.21. 2010 2011
Application Fee	\$ 7448.80	Receipt No.	107617
Pre-Application Conference	June 13, 2011	Hearing Date	PB 9/13/11 BOC 10/17/11
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Walton Engineering	Owner's Name:	Jim Teachey
Applicant's Address:	PO Box 895	Owner's Address:	1430 Commonwealth Dr., Suite 102
City, State, & Zip	Burgaw, NC 28425	City, State, & Zip	Wilmington, NC 28403
Phone Number:	910-259-4800	Phone Number:	910-520-4992
Legal relationship of applicant to land owner: Professional Engineer, Consultant			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3262-25-8994-0000 2262-69-4150-0000	Total property acreage:	721.76
Current Zoning District:	PD	Proposed Zoning District:	RA
Project Address :	Island Creek Road		
Description of Project Location:	Approx. 9,600 feet southwest of the intersection of Island Creek Road and HC Hwy 210. On the south side of Island Creek Road		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	7/18/11
Owner's Signature		Date:	7/21/11
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 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>7448.80</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 <u>1</u>	# of 11X17 <u>30</u>	Other documents/Reports	<input checked="" type="checkbox"/> Y <input 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 # _____		
Application received by:	<u>Ashley Frank</u>				Date: <u>7.21.11</u>	
Application completeness approved by:	<u>Ashley Frank</u>				Date: <u>7.21.11</u>	
Dates scheduled for public hearing: <input type="checkbox"/> Planning Board: <u>9.12.2011</u> <input type="checkbox"/> Board of Commissioners: <u>10.17.2011</u>						

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

Print Form

WALTON ENGINEERING

July 19, 2010

Pender County Planning Department
Attn: Ashley Frank
805 S. Walker Street
Burgaw, NC 28425

re: Rezoning Application

Dear Ashley,

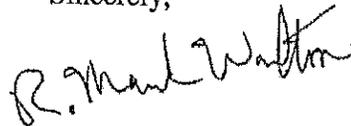
Attached is an Application for Rezoning and the required supporting documents. The application is for rezoning one parcel from PD to RA. The PIN number is 3262-25-8994-0000.

The property is in the name of Buyers Brokers and Consultants Inc. Jim Teachey is the sole stockholder of Buyers Brokers and Consultants Inc.

Mr. Teachey wishes to rezone the property from PD back to its former designation as RA for a number of reasons. The property was sold to the previous owners who had planned to develop it as a large planned development (by the Colorado Group) consisting of a number of tracts including the subject tract. The buyers did not pay for the land and ownership reverted back to Mr. Teachey. Mr. Teachey has no intention of developing the land as a planned development given the economic conditions at present and in the foreseeable future. He also owns an adjacent tract of land that is currently zoned RA (PIN # 3262-21-4435-0000, Hanpen Land Co) and he wants both tracts zoned the same. He intends to do timber management or other uses permitted in the RA district.

If you have any questions, please call me at 910-259-4800

Sincerely,



Mark Walton
N.C. Professional Engineer
Registration No. 16879



Elaine F. Marshall
Secretary

North Carolina
**DEPARTMENT OF THE
SECRETARY OF STATE**
PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

Date: 9/1/2011

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Corporation Names

Name	Name Type
NC BUYERS BROKERS AND CONSULTANTS, INC.	LEGAL

Business Corporation Information

SOSID:	0127946
Status:	Current-Active
Effective Date:	6/15/1984
Dissolution Date:	
Annual Report Due Date:	
Citizenship:	DOMESTIC
State of Inc.:	NC
Duration:	PERPETUAL
Annual Report Status:	CURRENT

Registered Agent

Agent Name:	TEACHEY, JAMES F.
Office Address:	1430 COMMONWEALTH DRIVE WILMINGTON NC 28403
Mailing Address:	1430 COMMONWEALTH DRIVE WILMINGTON NC 28403

Principal Office

Office Address:	1430 COMMONWEALTH DRIVE WILMINGTON NC 28403
Mailing Address:	1430 COMMONWEALTH DRIVE WILMINGTON NC 28403

Officers

Title:	PRESIDENT
Name:	JAMES F. TEACHEY
Business Address:	1430 COMMONWEALTH DRIVE WILMINGTON NC 28403

Stock

Class	Shares	No Par Value	Par Value
COMMON	1000		1

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