



REQUEST FOR BOARD ACTION

ITEM NO: 23.

DATE OF MEETING: September 17, 2012

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

SHORT TITLE: Public Hearing and Resolution Requesting Approval of a Special Use Permit (SUP) for Accommodations and Food Services for the Operation of a Catering Service and a Drinking Place Primarily Serving Alcoholic Beverages (NAICS 7223; 7224).

BACKGROUND: Warren Robinson, applicant and owner, is requesting approval of a Special Use Permit (SUP) for Accommodations and Food Services for the operation of a catering service and a drinking place primarily serving alcoholic beverages (NAICS 7223; 7224). The property is located 1756 Halfway Branch School Road (approximately 2.25 miles west of US Highway 421), in Burgaw and may be identified as PIN: 2350-80-6936-0000. The property is zoned RA, Rural Agricultural District and Special Food Services/Catering Service (NAICS 7223) and a drinking place (NAICS 7224) is permitted via Special Use Permit (SUP) in the RA District.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit.

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

on September 17, 2012 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for Accommodations and Food Services for the operation of a catering service and a drinking place primarily serving alcoholic beverages (NAICS 7223; 7224), as described herein. 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 ___

George R. Brown, Chairman 09/17/2012
Date

ATTEST 09/17/2012
Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: September 17, 2012

Applicant: Warren Robinson

Property Owner: Same

Case Number: 10766

Land Use Proposed: Warren Robinson, applicant and owner, is requesting approval a Special Use Permit (SUP) for the operation of a drinking place (bar/tavern style establishment), primarily focusing on the preparing and service of alcoholic beverages along with the addition of a kitchen for the preparation of food for a banquet hall and catering service (special food services).

Property Record Number and Location: The property is located at 1756 Halfway Branch School Road (approximately 2.25 miles west of US Highway 421), in Burgaw and may be identified by PIN: 2350-80-6936-0000. There is one (1) tract associated with this request totaling approximately ±6.02 acres.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural District, and according to the Pender County Unified Development Ordinance § 5.2.3 Table of Permitted Uses; Special Food Services (NAICS 7223) and Drink Places (NAICS 7224) are permitted via Special Use Permit (SUP) in the RA District.

Project History: The Pender County Board of County Commissioners approved a Special Use Permit for a trucking garage, Case Number 07-08-20-26, on August 29, 2007 to be located on the subject property; the applicant does not wish to modify the existing permit.

PROJECT DESCRIPTION:

The applicant is proposing to utilize 3,000 square feet of an existing 6,000 square foot building as a drinking place focusing on the preparation and service of alcoholic beverages; as well as the addition of a 576 square foot (24' X 24') kitchen to allow for the preparation of food. This area would also be available for private functions.

The business hours are proposed from 8 AM to 2 AM, Monday through Saturday, 12 Noon until 2 AM on Sundays and by private appointment as necessary. At this time the applicant is proposing the additional of four employees.

The sale of alcohol is regulated by the North Carolina Alcohol Law Enforcement (NC ALE); and all applicable permits will be required prior to the issuance of final zoning. All food preparation areas must be reviewed and approved by Pender County Environmental Health.

Access to the site is provided via an existing commercial driveway; the additional uses are subject to review and approval by NCDOT.

D. 2010 Comprehensive Land Use Plan Compliance: The subject property is classified as a Rural Area in the *2010 Comprehensive Land Use Plan*. The Rural Area classification defines those areas of Pender County where urban services such as public water and sewer services, are not expected to be extended within the planning horizon. Rural Areas are where preservation of agricultural operations is a primary concern and where conflicts between agricultural and non-agricultural uses are to be discouraged.

1. Development within Rural Growth areas should be limited to only those types of land uses and development intensities that can be accommodated by services typical in non-urban areas.
2. Uses that would typically be allowed in Rural Growth areas include very low-density residential development on one acre or greater size lots; agriculture, forestry, churches and very limited nonresidential uses such as commercial, office, or public/institutional - meeting locational criteria. Locational criteria for non-residential uses in Rural Growth areas include frontage and access to a major State 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. Areas designated as Rural Growth are located primarily in the western portion of the County.

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

Additionally, the SUP request does not conflict with any goals and policies in the 2010 Pender County Comprehensive Land Use Plan.

- E. Existing Land Use in Area:** The project site is bounded to the north and east by timber/forestry tracts, to the south agricultural field and to the west low density single family residential.
- F. Site Access Conditions:** The property has direct access via an existing driveway on Halfway School Branch Road; the NC Department of Transportation will require a driveway permit.
- G. Conditions To Consider In Issuing A Revision of the Special Use Permit For This Project:**
1. The applicant shall meet all other local, state and federal regulations.
 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 24 months after the notice of approval has been served to the applicant.
 3. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
 4. A separate permit must be obtained for any proposed signs in accordance with Article 10 of the Pender County Unified Development Ordinance.
 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. Business hours are from 8 AM to 2 AM, Monday through Saturday, 12 Noon until 2 AM on Sundays and by private appointment as necessary.
 7. 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.

8. 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
9. 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.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO

It would appear, based on the information presented, that the only thing the applicant would need to do as far as DOT/transportation issues is contact DOT regarding a driveway permit.

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

No response.

NC DENR Division of Water Quality

We have no objection.

NC DOT Division of Highways

Due to change of use we will need a driveway permit. However, no improvements will be required.

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

Parks and Recreation has no issues with this request.

Pender County Public Library

No response.

Pender County Public Utilities

No Comment from PCU. Our services are not currently available in this area.

Pender County Schools

The referenced project does not appear to cause any problems with school transportation.

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

No response.

Prior to the issuance of zoning approval and building permits; a site development plan must be submitted and approved in accordance with 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.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Sector 72: ACCOMMODATIONS AND FOOD SERVICES											
Special Food Services	7223	S				P	P	P	P	P	
Drinking Places (Alcoholic Beverages)	7224	S				P	P				



EVALUATION:

- A. **Public Notifications:** Public Notice of the proposal for Public Hearing has been advertised in the Pender-Topsail Post and Voice. Adjacent property owners have been given written notice of the request, as well as a sign placed on the subject property.
- B. **Basis for Granting SUP:** See Attachment A for approval procedures (§3.12.3 G of the Pender County Unified Development Ordinance) and revocation, expiration and revision procedures (§3.12.4.B, C, and H of the Pender County Unified Development Ordinance (UDO)).
- C. **Zoning Ordinance Compliance:** The property is currently zoned RA, Rural Agricultural District, and according to the Pender County Unified Development Ordinance, § 5.2.3, Table of Permitted Uses; Special Food Services (NAICS 7223) and Drink Places (NAICS 7224) are permitted via Special Use Permit (SUP) in the RA District.

Attachment A

3.12.3 Procedures for Reviewing Applications

- 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. After a public hearing has been held, the Board of Commissioners may revoke the Special Use Permit upon finding any of the following:
- 1) That the approval was obtained by fraud.
 - 2) That the use for which such approval was granted is not being executed.
 - 3) That the use for which such approval was granted has ceased to exist or has been suspended for one year.
 - 4) That the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval.
 - 5) That the permit granted is in violation of an Ordinance or Statute.

- 6) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.
- C. Expiration - Unless a request for additional time is granted or approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void if final Zoning Approval has not been issued for the project within 24 months after the Notice of Approval of the Special Use Permit has been served on the applicant. The Administrator may provide one extension of the expiration date by no more than 6 months, for complex projects requiring major state or federal permits, upon receipt of a written request for such extension by the applicant detailing the reasons for delay in completion of the requirements for the Zoning Approval.
- H. 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 10766	Date	July 31, 2012
Application Fee	\$ 310.20	Receipt No.	# 121412
Pre-Application Conference	FY 11-12	Hearing Date	9.17.2012
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Warren Robinson	Owner's Name:	Same As Applicant
Applicant's Address:	1756 Halfway Branch School Rd.	Owner's Address:	
City, State, & Zip	Burgaw, NC 28425	City, State, & Zip	
Phone Number:	910-604-0521	Phone Number:	
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	2350-80-6936-0000	Total property acreage:	6.02
Zoning Classification:	RA	Acreage to be disturbed:	None
Project Address :	1734 Halfway Branch School Rd.	NAICS Code:	7223
Description of Project Location:	60 x 100 building for trucking facility.		
Describe activities to be undertaken on project site:	Use half of building to establish a place that host anniversary parties, social gatherings, family reunions, etc.. (722320) Banquet Hall w/catering "Special Food Services"		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	
Owner's Signature		Date:	
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 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. 			

Office Use Only						
<input type="checkbox"/> General/ Fees: \$300 +\$10 per acre over 5 acres, Max. of \$5,000 <input type="checkbox"/> Tower over 75 Feet/ Fees \$500 <input type="checkbox"/> Minor Revisions / Fees \$100 <input type="checkbox"/> Mining Fees \$750	Total Fee Calculation: \$ <u>310.02</u>					
	Application#: _____					
	Date of Hearing: <u>Sept. 17, 2012</u>					
Attachments Included with Application: (Please include # of copies)						
CD /other digital version	<input type="checkbox"/> Y <input type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input 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 type="checkbox"/> Check # _____	
Application received by:		<u>Jaki Pace</u>			Date: _____	
Application completeness approved by:		<u>Ashley Frank</u>			Date: <u>8.6.2012</u>	

Special Use Permit Checklist

<input type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input type="checkbox"/>	Application fee
<input 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 type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
<input type="checkbox"/>	Project Narrative --Written description of the project (<u>max of 3 pages</u>) including the following: <ul style="list-style-type: none"> <input type="checkbox"/> Location of the project and type of access to project site <input type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input type="checkbox"/> Description of all construction activities to be undertaken on the site <input type="checkbox"/> Describe type of utilities that will serve project and status of approval from applicable providers <input type="checkbox"/> List of all state and federal permits that will be required for the project <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.
<input type="checkbox"/>	Project Map(s) --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"> <input 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. <input type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <input 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. <input 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. <input type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO) <input type="checkbox"/> Landscaping and buffering (See Article 8, Pender County UDO) <input type="checkbox"/> All signs to be located on the property (See Article 10, Pender County UDO) <input type="checkbox"/> Pedestrian walks, area lighting and flood lighting. <input 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 & known or designated wetlands on the site. <input type="checkbox"/> Drainage plan and/or direction of flow of runoff from the project and site. <input type="checkbox"/> After review by the Planning and Community Development Department, additional information may be required to be submitted. <input type="checkbox"/> Two full size and twenty reduced size (max. 11"x17") copies of this map(s) shall be submitted.
RETURN COMPLETED APPLICATION TO: Pender County Planning & Community Development P.O. Box 1519 Burgaw, NC 28425	

Project Narrative

Property Owner: Warren Sheldon Robinson

Project Location: 1734 Halfway Branch School Rd.
Atkinson, NC 28421

Current Use: Trucking Garage

Proposed Use: Continue to utilize one area as trucking garage and other area as a lounge/reception facility for community.

NAICS Codes applicable: 7724-Drinking places (Alcoholic beverages)
7223-Special food services

Background information and summary: On August 20, 2007 approved for a special use permit (Case No. 07-08-20-26) to construct a trucking garage at the aforementioned project location. Building was completed on in May 2009 and has met on the requirements for the special use permit. When construction of the garage was complete, I realize that I had a rather large building and a lot of the area would not be used for trucking purposes. I started this building in 2007 with a vision. This vision was to provide a facility for my trucking business that I could be proud of and this vision has manifested enormously. The current structure is approximately 6,000'; I would like to propose to use this building for dual use. In 3,000' of the existing building, plus an addition of a 24 x 24 area for the kitchen of the building will be a lounge/reception hall. I will be continuing to use as the remaining space for the trucking garage. The goal is to create provide an atmosphere within the existing building that will be able to accommodate people that want to watch a football game and have a drink, in addition people can host a wedding reception, family reunions or community gatherings at this location. In this area of the county, there are minimal facilities that accommodate functions that I have listed. Therefore, being that this is my native home and the community has done so much to support my endeavors, this is my way of giving back to my community as well as keeping my trucking business. It is my intent to install a kitchen that will meet health code requirements. Installation of commercial tiles in the lounge/reception area, various seating arrangements and a bar is being proposed. I understand that I will have to obtain an ALE permit in order to sell drinks and if approve I will commence to submitting the proper paperwork to the state agency for any approvals. At no time will there be any misuse of this facility as I have invested a lot of time and money into obtaining my goals.

Thank you for your consideration.

Respectfully,



Warren Sheldon Robinson, Owner
W. S. Robinson Trucking