



REQUEST FOR BOARD ACTION

ITEM NO. 10.

DATE OF MEETING: November 19, 2012

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

SHORT TITLE: Public Hearing and Resolution Requesting Approval of a Special Use Permit (SUP) for the Operation of a Food and Beverage Store - Seafood Market (NAICS 445220).

BACKGROUND: Samuel Corbett, applicant and owner, is requesting a Special Use Permit (SUP) for the operation of a Food and Beverage Store - Seafood Market. The subject property is located at 102 Palmetto Drive in Hampstead and can be identified as Pender County PIN 3282-80-0971-0000. The property is currently zoned RP, Residential Performance District and according to the Pender County Unified Development Ordinance (UDO) §5.2.3 Table of Permitted Uses; Food and Beverage Store – Seafood Market (NAICS 445220) is permitted via Special Use Permit in the RP, Residential Performance District.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for the operation of a Food and Beverage Store - Seafood Market.

RESOLUTION

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that

on November 19, 2012 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for the operation of a Food and Beverage Store - Seafood Market (NAICS 445220) 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 ___

George R. Brown, Chairman 11/19/12
Date

ATTEST 11/19/12
Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: November 19, 2012

Applicant: Samuel Corbett

Property Owner: Same

Case Number: 10795

Land Use Proposed: Samuel Corbett, applicant and owner, is requesting approval of Special Use Permit (SUP) for the operation of a Food and Beverage Store - Seafood Market (NAICS 445220).

Property Record Number and Location: The subject property is located at 102 Palmetto Drive and may be identified as Pender County PIN 3282-80-0971-0000. There is one tract associated with this request totaling .58 acres.

Zoning District of Property: The property is currently zoned RP, Residential Performance, which permits a Food and Beverage Store - Seafood Market in this district with an approved Special Use Permit.

PROJECT DESCRIPTION:

Samuel Corbett, applicant and owner, is requesting the approval of a Special Use Permit for the operation of a food and beverage store - seafood market in the RP, Residential Performance district. The request includes the retail sale of seafood as an additional use on the property. Currently, the property includes an existing detached garage and equipment which is used for the processing, storage, and vending areas for the business.

Due to the nature of the proposed use, including the retail sale of seafood, business hours are not being proposed for this request. The proposed use includes the owner as the only on site employee.

Based on comments from the Pender County Technical Review Committee, a Driveway Permit will not be required.

Prior to the issuance of final zoning approval, a site development plan must be submitted and approved in accordance with applicable provisions of the Pender County UDO. A part of this review will include compliance with Article 8, Landscaping and Buffering as prescribed in the Pender County Unified Development Ordinance. In addition, all other applicable permits must be obtained including inspections and health department regulations.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MIN	PD	GB	OI	IT	GI	EC
Sectors 44-45 RETAIL TRADE											
Food and Beverage Stores	445	S	S			P	P		P		

EVALUATION:

- A. *Public Notifications:*** Advertisements for the proposal have been placed in the *Pender-Topsail Post & Voice*. 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. A food and beverage store - seafood market is permitted with a Special Use Permit, as prescribed by in 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 classified as Urban Growth Area in the 2005 CAMA Land Use Plan.
- E. *2010 Comprehensive Land Use Plan Compliance:*** The subject property is classified as Mixed Use in the *2010 Comprehensive Land Use Plan*. 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.
- The SUP request is supported by goals and policies within the *2010 Comprehensive Land Use Plan*:
- **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
- F. *Existing Land Use in Area:*** Properties immediately east and west of the site include low density single family residential homes. Properties located north and south of the site are vacant.
- G. *Site Access Conditions:*** The property has direct access to a private road, Palmetto Drive, which has access to Center Drive and Hughes Road.
- H. *Conditions To Consider In Issuing A Revision of the Special Use Permit For This Project:***
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.
1. The project shall comply with all requirements of the Pender County Unified Developed Ordinance.
 2. A separate permit must be obtained for any proposed signs in accordance with Article 10 of the Pender County Unified Development Ordinance.
 3. 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.
 4. Employees shall be limited to the property owners of the site.
 5. 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.
 6. 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.

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 comment.

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

Appears this road is not on the DOT system, therefore, we have no comments.

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 comment

Pender County Emergency Management

No response

Pender County Environmental Health

No comment

Pender County Fire Marshall

No response

Pender County Parks and Recreation

No comment

Pender County Public Library

No response

Pender County Public Utilities

No comment

Pender County Schools

No comment

Pender County Sheriff's Department

No response

Pender County Soil and Water Conservation District

No comment

Progress Energy Corporation

No response

US Army Corps of Engineers

No response

Wilmington Metropolitan Planning Organization

No response

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 10795	Date	10/1/2012
Application Fee	\$ 200.00	Receipt No.	
Pre-Application Conference	9/10/2012	Hearing Date	11/19/2012
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Samuel J. Corbett III	Owner's Name:	Samuel J. Corbett III
Applicant's Address:	102 Palmetto Dr	Owner's Address:	Same
City, State, & Zip	Hampstead NC 28443	City, State, & Zip	Same
Phone Number:	910-270-5252 / 620-1804	Phone Number:	Same
Legal relationship of applicant to land owner: Same			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3282-80-0971-0000	Total property acreage:	.58
Zoning Classification:	RP	Acreage to be disturbed:	N.A.
Project Address :	102 Palmetto 102 Palmetto DR	NAICS Code:	445220
Description of Project Location:	Lot 4 Washington Acres Sec 11B OFF SR. 1582 R PB 34/4 34/85		
Describe activities to be undertaken on project site:	Comm Fishing Boats that I own and use myself Wholesale Fish Sales to 2 vendors one or two times a week and Sales to Neighbors may be one or two times a week		
SECTION 3: SIGNATURES			
Applicant's Signature	<i>Samuel J. Corbett III</i>	Date:	9/29/12
Owner's Signature	<i>Samuel J. Corbett III</i>	Date:	9 29 12
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 checked="" 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>300-00</u> Application#: <u>10795</u> Date of Hearing: <u>11/19/2012</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 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>Kyle Brewer</u>				Date: <u>10/1/12</u>	
Application completeness approved by:	<u>KB</u>				Date: <u>10/1/12</u>	

Special Use Permit Checklist

<input checked="" 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	

I am self employed as a commercial fisherman. We have lived on Palmetto Drive for 12 years and stored my fishing equipment on the property one year prior. My equipment including three boats, crab pots, nets and coolers are stored on the property. I have a dealers license, therefore friends or neighbors will come to the house to buy crabs, fish or oysters. There are also two other gentlemen that pick up seafood to resell.

We live on a private road and are the first house, so no other neighbor on our street has extra traffic passing their home. One neighbor is adjacent to the property. Our home sits on the other side of the property and serves as a buffer between our other two neighbors. Since the complaint, we have installed a privacy fence along our property line to provide a buffer to the adjacent neighbor. At the time we built the home there was no adjacent neighbors, we were surrounded by wooded lots. Mr. Hughes made a point when showing the adjacent properties to let them know that they would be living next to a commercial fisherman and that his equipment would be there.

This is not a retail seafood market. There are no signs or retail counters. What seafood I sell off the property is sold at wholesale price as I enjoy supplying friends and neighbors with a high quality seafood.