REQUEST FOR BOARD ACTION

ITEM NO: 11.

DATE OF MEETING: November 19, 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 Real Estate and Rental and Leasing (NAICS 53); more specifically the use of a Real Estate Office for Agents and Brokers (NAICS 531210).

BACKGROUND: Coastal Land Designs, applicant, on behalf of 1400 Nowell Road, LLC, owner, is requesting approval of a Special Use Permit (SUP) for a Real Estate Office (NAICS 531210) to be located within an existing building. The property is located at 12395 NC Highway 50, along the southwest corner of Shepards Road, in Hampstead and may be identified as Pender County PIN 4236-33-6148-0000. The property is zoned RP, Residential Performance District and according to the Pender County Unified Development Ordinance (UDO) §5.2.3 Table of Permitted Uses; Real Estate, Rental and Leasing (NAICS 53) is permitted via Special Use Permit (SUP) 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 use of a Real Estate Office for Agents and Brokers (NAICS 531210).

RESOLUTION

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

on November 19, 2012 the Pender County Board of Commissioners (approved, modified, denied) a Special Use Permit (SUP) for Real Estate, Rental and Leasing (NAICS 53); more specifically the use of a Real Estate Office for Agents and Brokers(NAICS 531210), 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 ___

_____ 11/19/2012
George R. Brown, Chairman Date

_____ 11/19/2012
ATTEST Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: November 19, 2012
Applicant: Coastal Land Designs, Frank Braxton
Property Owner: 1400 Nowell Road, LLC
Case Number: 10808

Land Use Proposed: Coastal Land Designs represented by Frank Braxton, of behalf of the property owner 1400 Nowell Road, LLC, is requesting approval of a Special Use Permit (SUP) for a Real Estate Office (NAICS 531210) to be located within an existing building.

Property Record Number and Location: The property is located 12395 NC Highway 50, along the southwest corner of Shepards Road, in Hampstead and may be identified as PIN 4236-33-6148-0000. There is one (1) tract associated with this request totaling approximately ±0.48 acres.

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; Real Estate, Rental and Leasing (NAICS 53) are permitted via Special Use Permit (SUP) in the RP District.

PROJECT DESCRIPTION:

The applicant is proposing to utilize the 1,440 square foot existing office building along with an existing 2,000 square foot metal building for the new use of a real estate office. There is no construction proposed at this time.

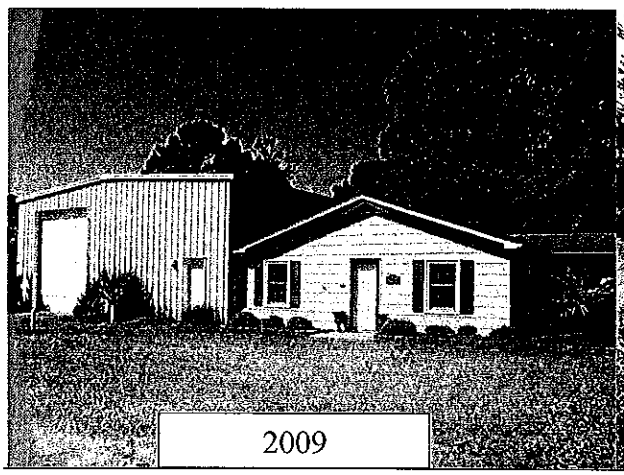
The business hours proposed are seven days a week (daylight hours) from 8 AM to 6 PM and limited evening hours. At this time the applicant is proposing two (2) full time employees.

Access to the site is provided by two (2) existing driveways; one along Shepards Road and one on NC Highway 50. The North Carolina Department of Transportation is not requiring a driveway permit at this time; reevaluation will be required for future expansion or additional uses at this site.

The business is proposing to utilize an onsite well for potable water and an individual on-site septic system, both subject to review and approval from Pender County Environmental Health.

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; a portion of that review will be to ensure that the site is brought into compliance with the landscaping and buffers required by the UDO. The site plan submitted with this application is considered conceptual and does not reflect any approvals or regulations in effect.

		Zoning Districts									
Use Type	Ref NAICS	RA	RP	RM	MH	PD	CB	CI	IT	GI	EC
Sector 53: REAL ESTATE AND RENTAL AND LEASING											
Real Estate and Rental and Leasing	53	S	S			P	P	P	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 RP, Residential Performance District, and according to the Pender County Unified Development Ordinance § 5.2.3 Table of Permitted Uses; Real Estate, Rental and Leasing (NAICS 53) are permitted via Special Use Permit (SUP) in the RP District.

D. ***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 goals and policies within this plan support the Special Use Permit request:

1. ***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.

a. ***Policy 1A.1.1**: Encourage development in and around municipal corporate limits and other developed areas within the County to yield a more compact pattern of development that will reduce suburban/rural sprawl.*
b. ***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.*

2. ***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.
   a. ***Policy 10A.1.6:** New and expanding industries and businesses shall be encouraged to 1) diversify the local economy, 2) train and utilize a more highly skilled labor force and 3) increase per capita income.*

Additionally, the Special Use Permit (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 existing land use in the area includes low density residential and vacant tracts to the north. Along the eastern boundary of the project is an existing business. To the south is an automotive/boat repair business within the Surf City Municipal Limits, and Parkside Manufactured Home Park. Along the western boundary is a single family residential dwelling.

F. ***Site Access Conditions:*** The property has direct access via two (2) existing driveways along NC Highway 50 and Shepards Road; the NC Department of Transportation will not require a driveway permit at this time.

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, including landscaping and buffering.
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 seven days a week from 8AM to 6PM and limited evening hours 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 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
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 response.

Pender County Emergency Management
No response.

Pender County Environmental Health
No response.

Pender County Fire Marshall
No response.

Pender County Parks and Recreation
No response.

Pender County Public Library
No response.

Pender County Public Utilities
No Comment from PCU.

Pender County Schools
No response.

Pender County Sheriff's Department
No response.

Pender County Soil and Water Conservation District
Soil & Water see no problem with request.

Progress Energy Corporation
No response.

US Army Corps of Engineers
No response.

Wilmington Metropolitan Planning Organization
After a review the applicant's request WMPO has no concerns regarding the usage, parking or site plan.

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 10808	Date	10-5-2012
Application Fee	$ 300.00	Receipt No.	#121774
Pre-Application Conference	July 13, 2012	Hearing Date	Nov. 19, 2012

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Coastal Land Design (Frank Braxton)	**Owner's Name:**	1400 Nowell Road LLC
Applicant's Address:	P.O. Box 1172	**Owner's Address:**	P.O. Box 3444
City, State, & Zip	Wilmington, NC 28402	**City, State, & Zip**	Surf City, NC 28445-0001
Phone Number:	910-254-9333	**Phone Number:**	919-606-1653

Legal relationship of applicant to land owner: Consultant

SECTION 2: PROJECT INFORMATION

Property Identification Number (PIN):	4236-33-6148-0000	**Total property acreage:**	0.4792
Zoning Classification:	Residential	**Acreage to be disturbed:**	0.0
Project Address :	12395 NC Hwy 50, Hampstead, NC 28443	**NAICS Code:**	531210
Description of Project Location:	Existing Office and Warehouse on approx.0.48 ac located in the southwest quadrant of the intersection of NC Hwy 50 and Shepard Road (SR 1533)		
Describe activities to be undertaken on project site:	Move in ready. No changes or construction activities required.		

SECTION 3: SIGNATURES

Applicant's Signature	Frank Braxton	**Date:**	10/4/12
Owner's Signature	1400 Nowell Road LLC by Dianne B Barnes	**Date:**	October 4, 2012

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.**

Office Use Only

☑ **General**/ Fees: $300 +$10 per acre over 5 acres, Max. of $5,000 ☐ **Tower over 75 Feet**/ Fees $500 ☐ **Minor Revisions** /Fees $100 ☐ **Mining** Fees $750	**Total Fee Calculation: $** 300.00 **Application#:** 10808 **Date of Hearing:** Nov 19, 2012

Attachments Included with Application: (Please include # of copies)

CD /other digital version	☐ Y ☒ N	Plan Sets	# of large 2	# of 11X17 17	Other documents/Reports	☑ Y ☐ N	

Payment Method:	**Cash:** ☐ $	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☑ Check # 1114

Application received by:	Ashley Frank	Date:	10.5.12
Application completeness approved by:	Ashley Frank	Date:	10.5.12

Special Use Permit Checklist

☑	Signed Application Form (Both Applicant and Owner)
☑	Application fee
☑	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
☑	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list.
☑	Project Narrative--Written description of the project (max of 3 pages) including the following: ☐ Location of the project and type of access to project site ☐ Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. ☐ Description of all construction activities to be undertaken on the site ☐ Describe type of utilities that will serve project and status of approval from applicable providers ☐ List of all state and federal permits that will be required for the project ☐ 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 (this item must be addressed by the applicant). The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
☑	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 readable 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: ☐ 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. ☐ Access from the site and/or project boundaries to the nearest publicly maintained road. ☐ Location of any existing structures or uses on the property and within 50' of the property. ☐ Location of the project boundaries if they do not coincide with the property boundaries. ☐ 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. ☐ 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. ☐ Parking, loading areas, and access to the project (See Article 7, Pender County UDO) ☐ Landscaping and buffering (See Article 8, Pender County UDO) ☐ All signs to be located on the property (See Article 10, Pender County UDO) ☐ Pedestrian walks, area lighting and flood lighting. ☐ 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. ☐ Drainage plan and/or direction of flow of runoff from the project and site. ☐ After review by the Planning and Community Development Department, additional information may be required to be submitted. ☐ 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

Print Form

SPECIAL USE PERMIT APPLICATION
PROJECT NARRATIVE
DAVID BARNES REAL ESTATE
12395 NC Hwy 50
HAMPSTEAD, NC 28443

Location
The subject property is located in the southwest quadrant of the intersection of NC Hwy 50 and Shepard Road (SR 1533). The Parcel is 0.4792 acres in size and has road frontage along both NC Hwy 50 and SR 1533. At present there are two access drives off of NC 50 and two off of Shepard Rd. One of the Shepard Road access drives, closest to the intersection, is not in use. All accesses are existing and no additional driveways are required.

Site Use
The past site uses have been a mix of non-residential uses including a similar management office. The existing structures consist of a small office building and a metal warehouse-storage structure. The proposed use as a real estate office is permitted as a Special Use in the RA and RP Zoning Districts and will not have an adverse effect on the surrounding properties or residents. By the nature of the proposed business, real estate transactions occur indoors and there is minimal traffic generation. Hours of operation are anticipated to be daytime with limited evening hours based on transaction needs. The proposed number of employees, at the present time, is two.

The Storage-Warehouse building is to be used for storage by the Real Estate Business and property Owner (personal property).

Construction Activities
The project site requires no improvements for the proposed use as a real estate office. As stated above, the site has been use for a similar use (management office) and is a continuation a non-residential use in a residential zoning district.

Utilities
The project site has an existing private well for a potable water supply and an existing septic tank and disposal field for sewer disposal. All other utilities are available.

State and Federal Permits
No State or Federal Permits are required for this project.

Impacts
The proposed use will not generate noise or increase the traffic volume and there are no improvements needed to generate construction activity. The proposed use is a low impact use. The Owner contacted the adjacent (West) property owner regarding a landscape buffer between the two properties and the adjacent property owner chose not to have a buffer. The verification letter is attached.

Given today's economy, many rental properties such as this remain empty for long periods, creating targets for vandals and falling into a state disrepair. This property is very visible from the roadways and is adjacent to residences. A tenant provides the presence needed for security and daily maintenance. No one wants to live next to an empty building. This site is "move in Ready" and no improvements are necessary for the intended use. The property is in good condition and has been well maintained.