



## REQUEST FOR BOARD ACTION

ITEM NO. 21

**DATE OF MEETING:** March 18, 2013

**REQUESTED BY:** Benjamin Andrea, Senior Planner, Planning & Community Development

**SHORT TITLE:** Request to One Tract from GB, General Business District to RA, Rural Agricultural District.

**BACKGROUND:** Charles and Barbara Murray, applicants and owners, are requesting approval of a Zoning Map Amendment for a general use rezoning of one tract totaling 87 acres from GB, General Business zoning district, to RA, Rural Agricultural zoning district. The property is located at 301 Murraytown Road and may be identified by Pender County PIN 3330-29-0141-0000.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider the request to rezone an 87 acre tract from GB, General Business zoning district, to RA, Rural Agricultural zoning district.



## **PLANNING STAFF REPORT**

### **Zoning Map Amendment**

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#### **SUMMARY:**

**Hearing Date:** March 5, 2013 – Planning Board  
March 18, 2013 – Board of Commissioners  
**Application Number:** 10867 – Murray (ZMA)  
**Applicant:** Charles and Barbara Murray  
**Property Owner:** Charles and Barbara Murray

**Rezoning Proposal:** The request consists of rezoning one tract from GB, General Business District to RA, Rural Agricultural District.

**Property Record Numbers, Acreage, and Location:** The property consists of 87 acres, is located at 301 Murray Town Road, and may be identified by PIN 3330-29-0141-0000.

**Staff Recommendation:** The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is not in conflict with 2010 Comprehensive Land Use Plan; therefore, staff respectfully recommends that the request be approved.

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#### **DESCRIPTION:**

Charles and Barbara Murray, applicants and owners, are requesting approval of a general use rezoning for one tract totaling 87 acres from GB, General Business district to RA, Rural Agricultural district.

Currently the entire 87 acre tract is zoned GB, General Business, and has approximately 640 feet of road frontage on Murray Town Road, as well as an existing driveway onto the road. The property hosts one single-family residential manufactured home, in addition to several conforming accessory buildings.

Currently, the single family residential use is considered the primary use. However, because of the existing zoning of the property, the primary use (residential) is considered nonconforming, as are the existing single-family residential structure and the accessory structures. The rezoning, as proposed, would not increase the degree of non-conformity of the structures or uses, but rather bring the use and structures back to a conforming state, as residential uses are permitted by-right in the RA, Rural Agricultural zoning district.

Staff research has revealed that zoning of the property changed from RA, Rural Agricultural to B-2, Business District (Highway) upon the approval of a county-wide zoning map amendment at the October 20, 2003 Board of Commissioners meeting. Again in 2010, Pender County undertook a county-wide zoning map amendment initiative that affected the subject property. This change enveloped the three former commercial oriented zoning districts (B-1, B-2, and B-3) into a new zoning district called GB, General Business. This zoning map amendment was approved by the Board of Commissioners at their June 21, 2010 meeting, and became effective on July 1, 2010.

The existing land uses of the surrounding property consist primarily of low to moderate density single-family residential uses, in addition to some undeveloped land with agricultural and timbering uses. The existing zoning in the vicinity of the subject property consists of GB, General Business, RA, Rural Agricultural, and a pocket of RP, Residential Performance along Debb and Jenn Roads. For visual representation of the existing zoning in the area, please refer to the Zoning Map included with the Staff Report.

This is a general use rezoning which will encompass all uses permitted-by-right in the RA, Rural Agricultural zoning district, as shown on the Permitted Use Table 5.2.3 of the *Pender County Unified Development Ordinance*. The Rural Agricultural zoning district is intended to accommodate non-residential agricultural uses and very low density residential development (minimum of 1 du/acre), as well as limited non-residential uses, in rural areas adjacent to agricultural operations. Development in this district should rely predominately on individual wells and septic tank systems for domestic water supply and sewage disposal.

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**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**

*No comment*

**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 Marshal**

*No response*

**Pender County Parks and Recreation**

*No issues/comments with request*

**Pender County Public Library**

*No response*

**Pender County Public Utilities**

*No comment*

**Pender County Schools**

*No issues/comments with request*

**Pender County Sheriff's Department**

*No response*

**Pender County Soil and Water Conservation District**

*No issues/problems with request*

**Progress Energy Corporation**

*No response*

**US Army Corps of Engineers**

*No response*

**Wilmington Metropolitan Planning Organization**

*No comment as subject property out of WMPO planning area*

## EVALUATION:

- A) Public Notifications:** Public Notice of the proposal for map change has been advertised in the *Pender-Topsail Post and Voice*. Adjacent property owners have been given written notice of the request, and a public notification sign has been placed on the property.
- B) Existing Zoning in Area:** The existing zoning in the vicinity of the subject property consists of GB, General Business, RA, Rural Agricultural, and a pocket of RP, Residential Performance along Debb and Jenn Roads.
- C) Existing Land Use in Area:** The existing land uses of the surrounding property consist primarily of low to moderate density single-family residential uses, in addition to some undeveloped land with agricultural and timbering uses.
- D) 2010 Comprehensive Land Use Plan Compliance:** The 2010 Comprehensive Land Use Plan classifies the subject property as Rural Growth. According to the 2010 Comprehensive Land Use Plan, areas with this designation are areas of the county where urban services such as public water and sewer are not expected to be extended within the planning horizon. Uses that would typically be allowed in Rural Growth areas should be limited to very low-density residential development, as well as very limited non-residential uses.

The following goals and policies within this plan support the rezoning request:

- a) **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.
  - b) **Growth Management Policy 1A.1.2:** Encourage development in areas where the necessary infrastructure – roads, water, sewer, and schools - are available, planned or can be most cost effectively provided and extended to serve existing and future development.
  - c) **Growth Management Policy 1A.1.3:** The County shall actively direct growth towards suitable land areas and away from fragile natural resource areas, conservation areas, and hazardous areas.
- E) 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:** The proposal consists of rezoning an 87 acre tract from GB, General Business, to RA, Rural Agricultural. The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is also consistent with the 2010 Comprehensive Land Use Plan. Therefore, staff respectfully recommends that the request be approved.

**VOTING AND RESOLUTION:**

**Planning Board**

Motion: McClammy **Seconded** Williams

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_ Unanimous 7-0

Boney: X Marshburn: X Baker: X Edens: X McClammy: X Nalee: X Williams: X