



REQUEST FOR BOARD ACTION

ITEM NO. 22.

DATE OF MEETING: December 9, 2013

REQUESTED BY: Megan O'Hare, Planner I, Planning & Community Development

SHORT TITLE: Public Hearing and Resolution Requesting Approval of a Special Use Permit (SUP) for the Construction and Operation of Real Estate and Rental and Leasing, and All Other Amusement and Recreation Industries.

BACKGROUND: Elloyd E. McIntire, applicant, on behalf of Great Oaks Golf Enterprises LLC, owner, is requesting approval of a Special Use Permit for the construction and operation of outdoor storage area for boats, trailers and vehicles for the homeowners of Grand Oaks Community and general public; as well as a public outdoor tennis facility. The property is located at 124 Pine Village Drive in Rocky Point and may be identified by Pender County PIN 3204-97-0219-0000. The property is currently zoned RA, Rural Agriculture zoning district. According to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; amusement and recreation industries (NAICS 713990) and real estate and rental and leasing (NAICS 53) are permitted via Special Use Permit in the RA zoning district.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Special Use Permit for an amusement and recreation facility.

RESOLUTION

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

The Board hereby (approved, modified, denied) a special use permit for a telecommunication tower, 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 ___ McCoy ___ Tate ___ Ward ___ Williams ___

George R. Brown, Chairman 12/9/2013
Date

ATTEST 12/9/2013
Date

PLANNING STAFF REPORT
Special Use Permit

SUMMARY:

Hearing Date: December 9, 2013
Applicant: Elloyd E. McIntire
Property Owner: Grand Oaks Golf Enterprises, LLC
Case Number: 11076

Land Use Proposed: The applicant is requesting the approval of a Special Use Permit (SUP) for the construction and operation of outdoor storage area for boats, trailers and vehicles for the homeowners of Grand Oaks Community and the general public; as well as an outdoor tennis facility.

Property Record Number and Location: The property is located on Pine Village Drive, directly south of NC Highway 210, in Rocky Point. This property may be identified as Pender County PIN 3204-97-0219-0000. There is one tract associated with this request totaling approximately 3.14 acres.

Zoning District of Property: The property is currently zoned RA, Rural Agricultural. According to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; amusement and recreation industries (NAICS 713990) and real estate and rental and leasing (NAICS 53) are permitted via Special Use Permit in the RA zoning district.

PROJECT DESCRIPTION:

Elloyd E. McIntire, applicant, on behalf of Grand Oaks Golf Enterprises LLC, owner, is requesting approval of a Special Use Permit for the construction and operation of outdoor storage area for boats, trailers and vehicles for the homeowners of Grand Oaks Community and the general public; as well as an outdoor tennis facility. The property is located at 124 Pine Village Drive in Rocky Point and may be identified by Pender County PIN 3204-97-0219-0000. The property is currently zoned RA, Rural Agriculture zoning district. According to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; amusement and recreation industries (NAICS 713990) and real estate and rental and leasing (NAICS 53) are permitted via Special Use Permit in the RA zoning district.

The site currently contains a gravel parking area, storage containers, chipping & putting greens, and a pump house. Directly to the north of the subject property is the Grand Oaks Golf Driving Range. These amenities service those living in the Grand Oaks community as well as the general public, as this property is conveyed on Map Book 33 page 63 as Future Development (Attachment 2). According to the applicant's submitted documents, the proposed tennis court and the temporary storage facility directly adjacent to the tennis court will service the Grand Oaks community and the general public. However, it must be noted that though the site is open to the public, priority is given to residents of the Grand Oaks community, mainly for boat, trailer and vehicular storage (Attachment 3).

Environmental Concerns

There are no identified areas on environmental concern on this property including wetlands or inland waters in an Area of Environmental Concern for the North Carolina Division of Coastal Management.

Property Buffers

The applicant proposes a twenty-five (25') foot buffer between the subject property and the northern border along Pine Village Drive and the existing Grand Oaks Golf Driving Range. A ten (10') foot buffer is proposed surrounding the western, southern and eastern property lines. These adjacent properties are vacant and zoned as RP, Residential Performance. Based on the proposal the surrounding impact on adjacent properties will be minimal however, all buffers will be reviewed at the time of Site Development Plan submittal.

Adjacent Properties

Directly to the north of the property is the Grand Oaks Golf Driving Range, servicing those in the Grand Oaks community and the general public. The property which boarder the western and southern boundaries is wooded and undeveloped, owned by the applicant. The Grand Oaks homeowners association owns the undeveloped property to the south and east of the property; originally platted as Future Development (Attachment 2).

Services

The current proposal does not include any restroom facilities however, at the time of submittal for a Site Development Plan adequate services must be provided if there are any additional requirements of a restroom facility. This approval would be contingent upon Pender County Utilities and Environmental Health approvals.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MEI	PD	GB	CA	IT	GI	FC
Sector 53: REAL ESTATE AND RENTAL AND LEASING											
Real Estate Rental and Leasing	53	S	S			P	P	P	P		
Sector 71: ARTS, ENTERTAINMENT, AND RECREATION											
All Other Amusement & Recreation Industries	71299	S				P	P		P		

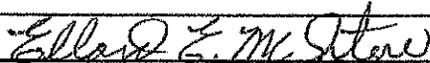
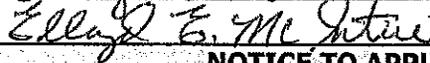
EVALUATION:

- 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; as well as a sign advertising the public hearing place on the subject property.
- B. Basis for Granting SUP:** See Attachment 1 for approval procedures (§3.12.3 of Unified Development Ordinance) and revocation procedures (§3.12.4 of Unified Development Ordinance).
- C. Unified Development Ordinance Compliance:** The property is currently zoned RA, Rural Agricultural. According to the Pender County Unified Development Ordinance §5.2.3 Table of Permitted Uses; Amusement and Recreation Industries (NAICS 713990) and Real Estate and Rental and Leasing (NAICS 53) are permitted.
- D. 2010 Comprehensive Land Use Plan Compliance:** The subject property is classified as Suburban Growth in the *2010 Comprehensive Land Use Plan*. The Suburban Growth land use classification identifies those areas of Pender County where significant residential growth is expected to occur within the planning horizon. Areas designated as Suburban Growth are located primarily adjacent to municipal planning jurisdictions and within or near high growth, un-incorporated areas of the County, i.e., Hampstead/Scotts Hill, Rocky Point, and portions of US 421 South. Suburban Growth designates areas where public water and public sewer are available or are planned in the near future.
- a. The SUP request may be supported by the following within the *2010 Comprehensive Land Use Plan*:
 - i. **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.
 - ii. **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.
 - iii. **Rocky Point Small Area Plan Policy 4B.1.4** New development within the small area (Rocky Point) should be compatible with existing residential uses.
 - iv. **Parks, Recreation, Open Space and Waterway Access Goal 7B.1** Increase the amount of land available and the funding for parks, recreation and open spaces to serve Pender County residents and visitors.
 - b. The SUP does not conflict with any goals in the *2010 Comprehensive Land Use Plan*.
- E. Existing Land Use in Area:** Directly to the north of the property is the Grand Oaks Golf Driving Range, servicing those in the Grand Oaks community and the general public. The property which boarder the western and southern boundaries is wooded and undeveloped, owned by the applicant. The Grand Oaks homeowners association owns the undeveloped property to the south and east of the property; originally platted as Future Development (Attachment 2).
- F. Site Access Conditions:** The proposed use accesses directly from Pine Village Drive, a private road maintained by the residents of Grand Oaks Community. Pine Village Drive intersects with NC Highway 210 in Rocky Point.

G. *Conditions To Consider In Issuing the Special Use Permit For This Project:*

1. The project shall comply with all requirements of the Pender County Unified Development Ordinance.
2. 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 to the applicant.
3. 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.
4. The applicant shall meet all other local, state and federal regulations.
5. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit.

APPLICATION FOR SPECIAL USE PERMIT

THIS SECTION FOR OFFICE USE			
Application No.	SUP 11076	Date	10/24/13
Application Fee	\$ 300	Receipt No.	
Pre-Application Conference		Hearing Date	12/9/2013
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Elloyd E. McIntire	Owner's Name:	Same
Applicant's Address:	309 Pine Village Drive	Owner's Address:	Same
City, State, & Zip	Rocky Point NC 28457	City, State, & Zip	Same
Phone Number:	910-675-9337	Phone Number:	910-675-3383
Legal relationship of applicant to land owner: The same			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3204-97-0219	Total property acreage:	3.14 AC
Zoning Classification:	RA	Acreage to be disturbed:	0.23 AC
Project Address :	536 Pine Village Drive Rocky Point, NC 28457		NAICS Code:
Description of Project Location:	At the terminus of Pine Village Drive and adjacent to the Grand Oaks Golf Driving facilities on the site identified by (pin) 3204 - 97-0219		
Describe activities to be undertaken on project site:	Construction of an open storage facility with 10 ea parking spaces 10' x 50' and a 50'W X 100'D Tennis Court within a 100.0' x 100.0' Chain link fence		
	Prepare site for construction of an open storage facility with a tennis court attachment which will operate from the Grand Oaks Golf		
	Driving Range. Parking for the tennis court will be in the driving range parking lot.		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	10-23-2013
Owner's Signature		Date:	10-23-2013
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 checked="" type="checkbox"/> Mining Fees \$750				Total Fee Calculation: \$ Application#: Date of Hearing:		
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: <i>Emergen Chase</i>				Date: <i>10/24/2013</i>		
Application completeness approved by: <i>Emergen Chase</i>				Date: <i>10/24/2013</i>		

Special Use Permit Checklist

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Signed Application Form (Both Applicant and Owner)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Application fee
<input type="checkbox"/>	<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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	One business size envelope legibly addressed with first class postage for each of the adjacent property owners on the above list. <i>2 envelopes w/stamps</i>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Project Narrative --Written description of the project (max of 3 pages) including the following: <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Location of the project and type of access to project site <input checked="" type="checkbox"/> Detailed description of the activities to be undertaken on the site, including hrs. of operation, # of employees, etc. <input checked="" type="checkbox"/> Description of all construction activities to be undertaken on the site <input checked="" 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 checked="" type="checkbox"/> Applicant must specifically address the 8 written findings for Special Use Permit approval which are identified on page 1 of this application and in the Pender County Unified Development Ordinance (Section 3.12.3.G.). 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. The applicant may also wish to describe any positive benefits the project will provide for the community and/or neighbors of the project.
<input checked="" type="checkbox"/>	<input checked="" 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 checked="" 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 checked="" type="checkbox"/> Access from the site and/or project boundaries to the nearest publicly maintained road. <input checked="" type="checkbox"/> Location of any existing structures or uses on the property and within 50' of the property. <input checked="" type="checkbox"/> Location of the project boundaries if they do not coincide with the property boundaries. <input checked="" 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 checked="" 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 checked="" type="checkbox"/> Parking, loading areas, and access to the project (See Article 7, Pender County UDO) <input checked="" 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 checked="" 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 checked="" 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		

Elloyd E. McIntire
309 Pine Village Drive
Rocky Point, NC 28457

Pender County Planning Division
805 S. Walker Street
Burgaw NC 28425

Subject: Special Use Permit For Open Storage Facility With Tennis Court.

I am requesting a special use permit to construct an open storage area with a tennis court attached to accommodate the homeowners of the Grand Oaks Community with a place to store ,boats ,trailers or vehicles which are prohibited to be parked on lots by the HOA covenants. The tennis court will be an additional recreational activity at the Grand Oaks Driving Range.

The construction will consist of a 100' x 100' x 4" concrete slab with a 8'H fence with barbed wire at the top. The location will be at the terminus of Pine Village Drive across from the golf Driving Range and will be located on property identified as (PIN) #3204-97-0219 of the Pender County tax records. The storage area will consist of 10 parking spaces 10'W X 50'D and a tennis court 50'W X 100'D.

The requested use will not impair the integrity or character of the surrounding or adjoining district, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property.

The proposed use shall not constitute a nuisance or hazard to the community.

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 Commissioners.

Adequate utilities and parking for the tennis court are already in place at the Grand Oaks Golf Driving Range. Lighting is not required because operating hours only be during daylight hours.

Adequate measures have been or being taken to provide ingress and egress to minimize the traffic congestion in the public roads.

The requested use will not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements.

This storage facility will provide permanent storage for the residents of the Grand Oaks Community
And temporary storage for the general public.

The project sit for this project is located with in my outer property boundary lines and should not require letters to any adjoining property owners.

Attachment 1

3.12.3 Procedures for Reviewing Applications

- A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.
- B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.
- C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.
- D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.
- E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.
- F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.
- 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

- A. Compliance With Other Codes - Granting of a Special Use Permit does not exempt the applicant from complying with all of the requirements of building codes and other Ordinances.
- 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.

D. Duration of Special Use - Any conditions imposed on a special use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Pender County UDO 3-28 Article 3 – Review Procedures Special Use Permit or subsequently changed or amended by the Board of Commissioners after application to the Board of Commissioners and a public hearing.

E. Conditions and Guarantees - Prior to the granting of any special use, the Board of Commissioners may stipulate such conditions and restrictions upon the establishment, location, or construction, maintenance, and operation of the special use as it deems necessary for the protection of the public and to secure compliance with the standards and requirements specified in this Ordinance. In all cases in which special uses are granted, the Board of Commissioners shall require such evidence and guarantees as it may deem necessary to assure that conditions stipulated in connection therewith are being and will be complied with.

- 1) Such conditions may include a time limitation.
- 2) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six (6) feet before the use requested is initiated".
- 3) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m."

F. Filing of Special Use - The Administrator shall file the approved or disapproved application forms with the decision of the Board of Commissioners.

G. Appeals from the Board of Commissioners - Appeals to the Superior Court may be taken by any person, firm, or corporation aggrieved, or by any officer, department, board of the county affected by any decision of the Board of Commissioners, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Commissioners is filed in the office of the Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board of Commissioners shall be delivered to the applicant by certified mail, return receipt requested.

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.