



REQUEST FOR BOARD ACTION

ITEM NO. 8.

DATE OF MEETING: January 21, 2014

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

SHORT TITLE: Resolution Requesting Approval of Amendment to the Pender County 2010 Comprehensive Land Use Plan, Future Land Use Map, Amending the Future Land Use Classification from Rural Growth to Suburban Growth.

BACKGROUND: Coleman Parks, applicant, on behalf of Parks Family Forestry, LLC, owner, is requesting an amendment to the 2010 Pender County Comprehensive Land Use Plan, Future Land Use Map. The requested amendment is to reclassify the subject property's Future Land Use Classification from Rural Growth to Suburban Growth. The subject property is located north of Island Creek Road, adjacent to the New Hanover County line. There is one tract totaling ±125 acres associated with this request and may be identified as PIN 3252-97-7356-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a resolution to amend the Pender County Comprehensive Land Use Plan.

RESOLUTION

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

on January 21, 2013 the Pender County Board of Commissioners (approved, modified, denied) a zoning text amendment request, 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: Williams ___ McCoy ___ Brown ___ Tate ___ Ward ___

J. David Williams, Chairman

01/21/2014
Date

ATTEST

01/21/2014
DATE

PLANNING STAFF REPORT
Comprehensive Land Use Plan- Map Amendment

SUMMARY:

Hearing Date: December 3, 2013- Planning Board
January 21, 2012- Board of Commissioners

Case Number: 11054-CMA

Applicant: Coleman Parks

Property Owner: Parks Family Forestry, LLC

Proposal: Coleman Parks, applicant, on behalf of Parks Family Forestry, LLC, owner, is requesting an amendment to the 2010 Pender County Comprehensive Land Use Plan, Future Land Use Map. The requested amendment is to reclassify the subject property's Future Land Use Classification from Rural Growth to Suburban Growth.

Property Record Numbers, Acreage, and Location: The subject property is located north of Island Creek Road, adjacent to the New Hanover County line. There is one tract totaling ±125 acres associated with this request and may be identified as PIN 3252-97-7356-0000.

Comprehensive Plans and Policies Committee (CPPC) Consensus: The Pender County CPPC recommends denial of this request; please see attachment 1.

Pender County Planning Board Recommendation: The Pender County Planning Board, after holding a public hearing On December 3, 2013, voted 5-1 in favor of recommending approval of the application.

Staff Recommendation: This proposal consists of changing one (1) tract totaling ±125 acres from Rural Growth to Suburban Growth as shown on the 2010 Comprehensive Plan Future Land Use Map. The Pender County Comprehensive Plans and Policies Committee (CPPC) recommend denial of this request; therefore, staff respectfully recommends that the request be denied.

Description

As outlined in the 2010 Comprehensive Plan; Policy 11A.1.4 any request to amend either the written text and/or the maps within the Plan shall follow the same process as a text or map amendment as described in the Unified Development Ordinance.

The applicant is requesting approval of an amendment to the 2010 Comprehensive Plan Future Land Use Map. The adoption of the 2010 Comprehensive Land Use Plan Future Land Use Map placed the subject property into the Rural Growth Land Use Classification. The proposed amendment would change one (1) tract totaling ±125 acres from Rural Growth to Suburban Growth.

Zoning Classification

The subject property is currently zoned RA, Rural Agricultural. Section 4.7.1 of The Pender County Unified Development Ordinance (UDO) currently defines the RA, Zoning District as a zoning district intended to accommodate non-residential agricultural uses and very low density residential

development (minimum of 1 du/ac), as well as limited non-residential uses, in rural areas adjacent to agricultural operations. Development in this District should rely predominantly on individual wells and septic tank systems for domestic water supply and sewage disposal.

The zoning classification is currently consistent with in the Future Land Use Classification. According to the applicant's submittal, the property owner would like to rezone the property to allow more moderate density single family residential development on the tract; however the North Carolina General Statute § 153A-341 states:

“Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.”

The applicant is seeking a Comprehensive Plan Amendment, specifically requesting the Future Land Use Classification be changed from in Rural Growth to Suburban Growth.

The current zoning classification of RA, Rural Agricultural requires a minimum lot size of 1 acre or 43,560 ft². The applicant would like to rezone the property to the RP, Residential Performance District, with the minimum lot size of 15,000 ft²; a land use reclassification to Suburban Growth would be required.

Land Use Classification

Rural Growth

The Rural Growth land use classification defines those areas of Pender County where urban services, i.e., public water and sewer services, are not expected to be extended within the planning horizon. Rural Growth areas are where preservation of agricultural operations is a primary concern and where conflicts between agricultural and non-agricultural uses are to be discouraged.

The Rural Growth Use Classification is described in the 2010 Comprehensive Land Use Plan as areas that are intended to protect agricultural and forestry operations that are a major part of the County's economic base and that are key to preservation of the County's rural landscape. Major job-creating activities that are compatible with farms, forestry and very low-density development are appropriate.

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, e.g., private on-site water supply (or public water, as available) and on-site septic systems. Development with private package sewage treatment plants or premature extension of public sewer systems into these areas is discouraged. Public sewer should not be extended except to the extent necessary to protect public health when existing community wastewater systems fail or a pattern of failure of on-site systems occurs in a specific area.

Uses that would typically be allowed in Rural Growth areas include very low-density residential development (single-family site-built, modular, and manufactured homes) on one acre or greater size lots; agriculture, forestry, churches; very limited nonresidential uses - 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.

Suburban Growth

The Pender County 2010 Comprehensive Land Use Plan defines the Suburban Growth land use classification as 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, unincorporated 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.

Achievable residential densities would be dependent on the type and level of public services that are available. Higher density residential development would be supported where both public water and sewer are available, provided adequate buffers and design features can minimize impacts on neighboring lower density residential properties. Uses that would typically be allowed in Suburban Growth areas include medium-high density residential (single-family site-built and modular homes); limited non-residential uses - commercial, office, or public/institutional - meeting locational criteria. Locational criteria for non-residential uses include frontage and access to a major State highway or secondary road, location at a major intersection, proximity to similar uses, and spatial separation from non-compatible uses such as existing residential development. As residential development increases in suburban areas, designation of large tracts for significant economic development projects will become more difficult because fewer locations will exist that have the characteristics of an attractive economic development site, particularly in terms of proximity to existing residential areas. It is noted that designation as a Suburban Growth area does not preclude the development of economic development sites considered important to the economic sustainability of Pender County

Public Infrastructure:

According to Pender County Utilities (PCU), there is an existing eight (8) inch waterline that runs just to the west of the intersection of Hunters Court and Island Creek Road (Attachment 2). A waterline extension to the subject property would only be installed by a developer as Pender County Utilities does not currently plan on a waterline extension in the subject property.

At this time sewer services are not available to the subject property.

Environmental Issues:

A portion of the subject property is located within the Special Flood Hazard Area (SFHA) Zones AE and AEFW along Island Creek which is a tributary to the Northeast Cape Fear River; according to the 2007 Flood Insurance Rate Maps (FIRMs), Map Number 3720325200K, Panel Number 3252 and Map Number 3720326200K, Panel Number 3262. Any development located within the SFHAs will be required to meet the meeting the prescribed standards as outlined in the Pender County Unified Development Ordinance Article 9, Flood Damage Prevention.

The subject property may have Areas of Environmental Concern (AECs), as designated by the Coastal Resources Commission under the authority of the Coastal Area Management Act (CAMA). Tidal and/or navigable waters within Pender County are classified as Public Trust Area up to the normal

high water line or normal water level and are subject to the CAMA. The Public Trust Shoreline AEC extends 30' landward of the normal high water line or normal water level. These lands would also be subject to CAMA.

EVALULATION:

- 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 RA, Rural Agricultural to the east; PD, Planned Development to the south, and bounded by New Hanover County's I-2, Heavy Industrial District to the west and north.
- C. *Existing Land Use in Area:*** The existing land uses of the surrounding property consist of vacant/undeveloped areas in addition to moderate density single-family residential uses along the eastern boundary.
- D. *2010 Comprehensive Land Use Plan Compliance:*** The 2010 Comprehensive Land Use Plan designates the subject property as Rural Growth.
- E. *Unified Development Ordinance Compliance:*** The Pender County Comprehensive Land Use Plan proposes all plan text or map amendments to follow Article 3.3.8 of the Unified Development Ordinance, which provides standards that shall be followed by the Planning Board before a favorable recommendation of approval can be made.

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:* This proposal consists of changing one (1) tract totaling ±125 acres from Rural Growth to Suburban Growth as shown on the 2010 Comprehensive Plan Future Land Use Map. The Pender County Comprehensive Plans and Policies Committee (CPPC) recommend denial of this request; therefore, staff respectfully recommends that the request be denied. The Pender County Planning Board is recommending approval of this request.

VOTING AND RESOLUTION:

Motion: Edens Seconded Williams

Approved: X Denied: _____ Unanimous: _____

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

Comprehensive Plans and Policies Committee (CPPC) Comments:

Comment 1

The property will be located approximately ¼ mile away from the proposed by-pass in a very rural area, other than the Ideal Cement plant which is located 1 mile to the west. In addition to the SFHA area the tract contains 404 wetlands. A small pocket of Baymeade soils could be suitable for septic systems but those soils only comprise about 45% of the property. Without public water and sewer this property is better suited to Rural Growth development.

For the reasons above I cannot support this request.

Comment 2

If you look at the property there is very little in the way of development in that area and the argument that the Hampstead By-pass will change the area I don't agree with. First the By-pass may never happen and at the least it will be 2020. Second it is an area of farms and that makes the property the exact reason that the land is designated as Rural Growth. I would vote no on the rezoning.

Comment 3

This buyer is definitely one to be ahead of the curve in all aspects of planning and development. I have a hunch that he knows what Pluris is proposing with the package plant on Island Creek. But I digress.... here are my interpretations of the facts, as of right now, based on the information provided:

The property in questions does have the conservation issues we discussed during the committee meetings: 404 wetlands, Flood Hazard areas, Public Trust Shoreline, etc.

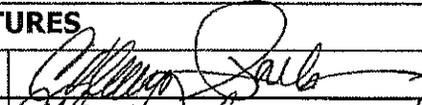
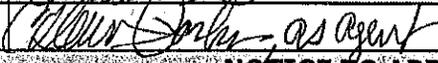
The property does have the water line, but PCU has not confirmed or planned to extend the line.

Pluris has a SUP proposed, not confirmed, and it is subject to a commissioner vote. We do not know if that will be approved or not.

The Wilmington MPO does not supersede or force Pender County into approving new land classifications at will.

Based on these assumptions, I am not in favor of the amendment to the Pender County CLUP to include the Suburban Growth land classification.

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA FLU-MA	Date	10.18.2013
Application Fee	\$ 50.00	Receipt No.	
Pre-Application Conference	10-16-2013	Hearing Date	December 2, 13
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Coleman Parks	Owner's Name:	Parks Family Forestry, LLC
Applicant's Address:	214 Barnacle Circle	Owner's Address:	2021-A Corporate Drive
City, State, & Zip	Lexington, SC 29072	City, State, & Zip	Wilmington, NC 28405
Phone Number:	(803)957-0359	Phone Number:	(910)799-8080
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3252-97-7356-0000	Total property acreage:	124.69 acres
Current Zoning District:	Rural Growth (Land Use)	Proposed Zoning District:	Suburban Growth (Land Use)
Project Address :	Island Creek Road		
Description of Project Location:	Pender County/New Hanover County Line on North side of Island Creek Road in Pender County		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	10/18/2013
Owner's Signature	 as agent	Date:	10/18/2013
NOTICE TO APPLICANT			
<ol style="list-style-type: none"> 1. Applicant must also submit the information described on the Rezoning 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 Planning Board or other authorized person agrees to table or delay the hearing. 4. All fees are non-refundable. 5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda. 			

Rezoning/Zoning Map Amendment Checklist

<input checked="" type="checkbox"/>	Signed application form
<input checked="" type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	A list of names and addresses, as obtained from the county tax listings and tax abstract, all adjacent property owners, including property owners directly across any road or road easement, and owners of the property under consideration for rezoning.
<input checked="" type="checkbox"/>	Two (2) business size envelopes legibly addressed with first class postage for each of the adjacent and abutting property owners on the above list.
<input checked="" type="checkbox"/>	Accurate legal description or a map drawn to scale showing the property boundaries to be rezoned, in sufficient detail to for the rezoning to be located on the Official Zoning Map.
<input checked="" type="checkbox"/>	18 (11"x17") map copies to be distributed to the Planning Board
<input checked="" type="checkbox"/>	20 (11"x17") map copies to be distributed to the Board of Commissioners
<input checked="" type="checkbox"/>	Digital (.pdf) submission of all application materials
<input type="checkbox"/>	A description and/or statement of the present and proposed zoning regulation or district boundary and stating why the request is being made and any information that is pertinent to the case. If the owner and applicant are different, the letter must be signed by both parties.
Office Use Only	
<input checked="" type="checkbox"/>	ZMA Fees: (\$500.00 for first 5 acres; \$10/acre thereafter; up to 1,000 acres; \$5/acre thereafter) Total Fee Calculation: \$
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 checked="" type="checkbox"/> Check # _____
Application received by:	Ashley Frank Date: 10-18-13
Application completeness approved by:	Ashley Frank Date: 10-18-13
Dates scheduled for public hearing:	
<input type="checkbox"/> Planning Board:	Nov 2 Dec 3 13
<input type="checkbox"/> Board of Commissioners:	Jan 21 13

RETURN COMPLETED APPLICATION TO:
Pender County Planning & Community Development
805 South Walker Street
P.O. Box 1519
Burgaw, NC 28425

Print Form



STROUD ENGINEERING, P.A.

CONSULTING ENGINEERS
102-D CINEMA DRIVE
WILMINGTON, NORTH CAROLINA 28403
(910) 815-0775

Island Creek Road Subdivision

October 18, 2013

Pender County Land Cama Land Use Comprehensive Plan Amendment Narrative

The subject one hundred and twenty five acre property is currently zoned Rural Agricultural, RA. RA zoning requires one acre minimum lot sizes. The landowner desires to rezone this property to Residential Performance, RP, to enable a residential subdivision of medium density. The CAMA Land Use Classification on this property is Rural Growth. In order to effectively make application for the rezoning the land classification will need to be Suburban Growth. This property falls within the Wilmington Urban Area Metropolitan Planning Organization, MPO's Planning Boundary. A Suburban Growth land classification can be supported by the fact that the property falls within the MPO's Planning Boundary. The property across Island Creek Road is classified as Mixed Use. The subject property can support smaller lot sizes given the existence of public water along its frontage and sufficient soils to support septic tanks and leach fields. Island Creek Road is considered a collector road. The Hampstead Bypass is planned to come near enough to this property to remove any rural character that may once have existed along this route. The attached map shows the present Land Classifications and the proposed amendment.

107 COMMERCE ST.
SUITE B
GREENVILLE, NC 27858
(252) 756-9352

102-D CINEMA DRIVE
WILMINGTON, NC 28403
(910) 815-0775

HESTRON PLAZA TWO
151-A HWY. 24
MOREHEAD CITY, NC 28557
(252) 247-7479



B4005 P0128 12-19-2011
 Faye Teachey Prevatt PROF
 Pender County, NC Register of Deeds page 1 of 3

NORTH CAROLINA GENERAL WARRANTY DEED

DRAFTED BY: **HUNTER & PRICE, P. A., P.O. BOX 277, KENANSVILLE, NC 28349**

Parcel: 3252-97-7356-0000 ✓

Tax: \$00.00

THE ATTORNEY PREPARING THIS INSTRUMENT HAS MADE NO RECORD SEARCH OR TITLE EXAMINATION AS TO THE PROPERTY HEREIN DESCRIBED UNLESS THE SAME IS SHOWN BY HIS WRITTEN AND SIGNED CERTIFICATE

THIS DEED made this 15th day of December, 2011, by and between

GRANTOR

**LAWRENCE PARKS
 and wife,
 DEANNA PARKS

 108 Wisteria Court
 Wallace, NC 28466**

GRANTEE

**PARKS FAMILY FORESTY, LLC

 2021-A Corporate Drive
 Wilmington, NC 28405**

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Pender County, North Carolina and more particularly described as follows:

That certain tract bounded by Island Creek to the west and Holly Shelter Road to the South, and being one of the "two tracts" comprising the following described property;

TRACT NO. 2 (MAP NO. 008)
THE WESTBROOK ORRELL TRACTS

Two tracts together totaling 800.47 acres more or less and shown on a map of International Paper Company Property recorded in Map Book 3, Page 35 of the Pender County Registry. This property was acquired by International Paper Company by deed recorded in Book 262, Page 430 of the Pender County Registry. For an additional back reference see deed to IP Timberlands Operating Company, Ltd. in Book 673, Page 214 of the Pender County Registry.

Less and except the following tract:

The Westbrook-Orrell Tract

The "Westbrook Orrell Tract" totaling 671.86 acres more or less and shown on a map of International Paper Company Property recorded in Map Book 3, Page 35 of the Pender County Registry. This property was acquired by International Paper Company by deed recorded in Book 262, Page 430 of the Pender County Registry. For an additional back reference see deed to IP Timberland Operating Company, Ltd. in Book 673, Page 214 of the Pender County Registry.

This is a portion of the same land conveyed to Wachovia Bank of North Carolina, N.A., as Ancillary Trustee for Wachovia Bank of Georgia, N.A., as Trustee of the Wachovia Emerging Growth Timberland Fund, by Special Warranty Deed from McTeer Real Estate Company, Inc., dated August 12, 1994 and recorded in Book 995 at Page 294 of the Pender County Registry.

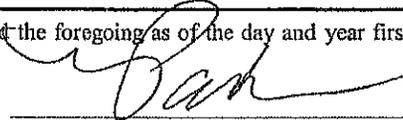
All or a portion of the property herein conveyed does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name)


LAWRENCE PARKS

(SEAL)

By: _____


DEANNA PARKS

(SEAL)



State of North Carolina

County of Duplin

I, the undersigned Notary Public of the County or City of Duplin and State aforesaid, certify that LAWRENCE PARKS and DEANNA PARKS personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 15th day of December, 2011.

Jill Weddle

(Seal)

Jill Weddle, Notary Public

My Commission Expires: 03/28/2014

