



REQUEST FOR BOARD ACTION

ITEM NO. 14

DATE OF MEETING: February 18, 2014

REQUESTED BY: Kyle M. Breuer, Director, Planning & Community Development

SHORT TITLE: Request to rezone a portion of one tract from GB, General Business to RA, Rural Agricultural Zoning District.

BACKGROUND: Jerrilynn Shackelford, applicant and owner, is requesting approval of a Zoning Map Amendment for a general use rezoning for 2.44 acres of a 4.62 acre tract from the GB, General Business to RA, Rural Agricultural zoning district. The property is located at 4189 NC Highway 53, along the northeast corner of NC Highway 53 and Whitestocking Road, Burgaw, NC and may be identified by Pender County PIN 3330-79-6458-0000. The Planning Board unanimously voted to recommend approval of the rezoning request on January 7, 2014.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the request to rezone 2.44 acres of a 4.62 acre tract from GB, General Business to RA, Rural Agricultural Zoning District.

RESOLUTION

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

on February 18, 2014 the Pender County Board of Commissioners (approved, modified, denied) a Zoning Map 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, Jr., Chairman

2/18/2014
Date

ATTEST
Delivered

2/18/14
DATE

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: January 7, 2014 – Planning Board
February 18, 2014 – Board of Commissioners
Case Number: 11079 – Pender County (ZMA)
Applicant: Jerrilynn Shackelford
Property Owner: Same

Rezoning Proposal: Jerrilynn Shackelford, applicant and owner, is requesting approval of a Zoning Map Amendment for a general use rezoning for 2.44 acres of a 4.62 acre tract from the GB, General Business to the RA, Rural Agricultural zoning district. More specifically, the portion requested for rezoning—beginning at the southwestern corner of the property—runs east 350 feet along southern property line fronting Whitestocking Road to the southeast corner of the property, north 355 feet along the southeastern property line, west 222 feet to the southwestern property line, and back south 492 feet along the western property line to the southwestern corner of the property.

Property Record Number, Acreage, and Location: The subject property is located at 4189 NC Highway 53 East in Burgaw, NC as referenced on Deed Book 3355, Page 0206 (Attachment 1) and Map Book 45, Page 114, (Attachment 2) and may be identified by Pender County PIN 3330-79-6458-0000. There is one tract associated with this request totaling 4.62 acres.

Planning Board Recommendation: On January 7, 2014, the Pender County Planning Board voted unanimously to recommend approval of this rezoning request.

Staff Recommendation: The request complies with all criteria set forth in Article §3.3.8 of the *Pender County Unified Development Ordinance* and does not conflict with the *2010 Comprehensive Land Use Plan*. Staff respectfully recommends that the request be approved.

HISTORY:

When Pender County first adopted zoning in 1988, the subject property was initially zoned RA, Rural Agricultural. In 2003, the zoning on that tract was split between RA, Rural Agricultural, and B-2, Business District-Highway. After the adoption of the 2010 Unified Development Ordinance, the subject property was entirely zoned GB, General Business.

DESCRIPTION:

The subject property totals 4.62 acres and fronts both Highway 53 to the east and Whitestocking Road to the south. There is a residential structure and an accessory dwelling on the northwest portion of the property and several open-air, accessory structures on the northeastern portion of the property. The southern portion of the property is currently vacant of structures (Attachment 3). The property is served by on-site septic and a well.

According to the narrative, the applicant would like to build a second residential structure on the property (Attachment 4). However, the property is currently zoned GB, General Business, and per the Pender County UDO, single family residential structures are not allowed in the General Business district (§5.3.2). Therefore, the applicant is applying for a general use rezoning to change the property from GB, General Business, to RA, Rural Agricultural.

The applicant is not applying to rezone the entire tract, however. She is only seeking to rezone 2.44 acres on the southern portion of the property. Per the UDO, “where the boundaries of a rezoning request do not follow a boundary line or a split zoned property line...[a]n illustration containing a metes and bounds description is required” (§3.3.1).

As provided by the applicant, the metes and bounds description is as follows: *Beginning at the southwest corner of the property, the portion requested for rezoning runs east 350 feet along southern property line to the southeast corner of the property, north 355 feet along the southeastern property line, west 222 feet to the southwestern property line, and back south 492 feet along the western property line to the southwestern corner of the property. This area totals 2.44 acres.*

Per the UDO, when an entire tract is not rezoned, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary (§3.3.1). In this case, if the rezoning request is granted, both portions of the tract would continue to meet the RA and GB dimensional requirements, respectively (§4.14). Additionally, it would be possible to subdivide and develop the northern portion of the property (the portion outside the proposed rezoning boundary) in accordance with the UDO standards.

The tract is located in the Shaded X Flood zone and has a 0.2% annual chance of flooding (Flood Panel Number 3720333000J).

PROJECT EVALUATION:

This zoning map amendment request has been evaluated for compliance with the Pender County Unified Development Ordinance and the Pender County Comprehensive Land Use Plan, as well as the existing land uses and zoning classifications in the surrounding area. The relevant sections of the UDO are included in Attachment A.

- 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, as well as a sign placed on the subject property.
- B. *Existing Zoning:*** The surrounding zoning classifications are both General Business and Rural Agricultural. The tracts immediately to the north, west and south of the property, are zoned GB, General Business. The tract to the east of the property is zoned RA, Rural Agricultural.
- C. *Existing Land Use:*** The property is bordered by a large forested parcel to the east, a residential structure to the north and a residential structure to the west. The southern boundary of the property fronts Whitestocking Road, across from several mobile homes.
- D. *2010 Comprehensive Land Use Compliance:*** The 2010 Comprehensive Land Use Plan designates the subject property “Rural Growth.” The Rural Growth Classification defines areas where

“development 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.” “Uses that are typically allowed in Rural Growth areas include very low-density residential development on one acre or greater lots, agriculture, forestry, churches and very limited non-residential uses.” (Sec. III 2.) The following policy from the 2010 Land Use Plan is relevant to this case:

- a. **Preferred Development Patterns Policy 3A.1.4:** *Consistently use the Comprehensive Land Use Plan, as well as other plans and studies, to determine if a rezoning request is appropriate and consistent with local policies.*

E. Unified Development Ordinance Compliance: This is a general use rezoning which will allow all uses permitted-by-right in the RA, Rural Agricultural zoning district. The RA zoning district “is 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.” (§ 4.7.1)

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.*

F. Summary and Administrator Recommendation: The application consists of rezoning 2.44 acres of a 4.62 acre tract from GB, General Business, to RA, Rural Agricultural. As submitted, the application is in compliance with the standards of the Pender County Unified Developed Ordinance and not in direct conflict of the Comprehensive Land Use Plan. Staff respectfully recommends approval for this general use rezoning.

Board Action for Zoning Map Amendment:

Motion: **Boney** Seconded **Marshburn**

Approved: **X** Denied: Unanimous **X**

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

ATTACHMENT A

UDO §3.3.1 General Use Rezoning

- A. Amendments to the Zoning Map, also called a Rezoning, shall be made in accordance with the provisions of this Section and shall follow the review process as shown in Figure 1 at the end of Section 3.4.
- B. The County Commissioners shall approve or deny amendments to the Zoning Map of Pender County, as may be required from time to time.
- C. Rezoning must correspond with the boundary lines of existing platted lots or tracts. Where the boundaries of a rezoning request do not follow a boundary line or a split zoned property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this Ordinance. An illustration containing a metes and bounds description is required.
- D. All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, the rezoning shall be expanded to include all property necessary to meet zoning requirements.
- E. Must show substantial compliance with the goals and policies of the Comprehensive Land Use Plan.

UDO §3.3.6 Action by Planning Board

- A. Before making any recommendation on a rezoning request, the Planning Board shall consider any recommendations from the Administrator and shall conduct a public hearing where interested parties may be heard.
- B. The Planning Board shall make a recommendation based on the Approval Criteria listed in 3.3.8.
- C. Following Planning Board review and recommendation, the completed request, Planning Board recommendation, staff recommendation and any related materials shall be forwarded to the County Commissioners.
- D. If the Planning Board fails to make a recommendation within 75 days following the date of the first hearing on the request, the County Commissioners may process the request without a recommendation.

UDO §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.

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA 11079	Date	11/20/13
Application Fee	\$ 500	Receipt No.	
Pre-Application Conference	yes	Hearing Date	1/7/14
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Jerrilyn Shackelford	Owner's Name:	Same
Applicant's Address:	4189 NC Hwy 53 E	Owner's Address:	Same
City, State, & Zip	Burgaw, NC 28425	City, State, & Zip	Same
Phone Number:	910 259 6981	Phone Number:	Same
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3330-79-6458	Total property acreage:	4.62
Current Zoning District:	GB	Proposed Zoning District:	RA
Project Address :			
Description of Project Location:			
SECTION 3: SIGNATURES			
Applicant's Signature	<i>Jerrilyn Shackelford</i>	Date:	11/20/2013
Owner's Signature	<i>Jerrilyn Shackelford</i>	Date:	
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. 			

Debbyshack@gmail.com
 Applicant's husband is Jimmy

PENDER COUNTY NC 11/15/2007 \$57.00
STATE OF NORTH CAROLINA Real Estate Excise Tax

FILED

BK 3355 PG 206

07 NOV 15 PM 3: 58
JOYCE M. SWICEGOOD
REGISTER OF DEEDS
PENDER COUNTY, NC

PIN # 3330-89-5326-0000
3330-79-7623-0000
DATE 11/15/07 INT JK

NORTH CAROLINA GENERAL WARRANTY DEED

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.

Excise Tax: \$57.00

Parcel Identifier No. 3330-79-7623-0000 & 3330-89-5326-0000 Verified by _____ County on the _____ day of _____

Mailed to: Pollock & Pollock, Attorneys at Law, PO Drawer 999, Burgaw, NC 28425

This instrument was prepared by: Pollock & Pollock, Attorneys at Law

Brief description for the Index:

THIS DEED made this 30th day of October, 2007, by and between

GRANTOR	GRANTEE
Ted A. Bradshaw, Divorced; Jerrilynn C. Shackelford and husband, Jimmy Shackelford	Jerrilynn C. Shackelford and husband, Jimmy Shackelford

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

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 the City of, Burgaw Township, Pender County, North Carolina and more particularly described as follows:

Being all of that 4.618 acres, more or less, as shown on that certain map entitled Map of Recombination for Jerrilyn C. Shackelford and Ted A. Bradshaw, dated August 2007, recorded 10 September 2007 in Map Book 45, page 114, Slide 615 of the Pender County Registry. Included in this 4.618 acres, more or less, is the 2.226 acres, more or less, tract previously conveyed to Jerrilynn C. Shackelford and husband, Jimmy Shackelford by Deed, dated 3 May 2007, recorded 11 May 2007 in Book 3228, page 190 of the Pender County Registry.

The property hereinabove described was acquired by Grantor by instrument recorded in Book _____, page _____.

Recorded and Verified
Joyce M. Swicegood
Register of Deeds
Pender County, NC

Attachment 4

November 20, 2013

To Whom It May Concern,

My husband and I have reached the age that we need to down size. We now live in a 4500 sq. ft. home and it is too much to take care of and maintain. We would like to down size to a much small home and sell the property and home facing Hwy. 53 East.

The remaining property, located facing Whitestocking Road is close to two acres and we would like to build a small home on one acre and keep the remaining acres zoned general business.

Our neighbors on each side of us do not have a problem with us changing the one acre to residential. There are single family homes all around us and a mobile home park across the street from the property we would like to rezone residential.

Thank you for taking this matter into consideration...

Jerrilynn Shackelford

A handwritten signature in cursive script that reads "Jerrilynn Shackelford". The signature is written in black ink and is positioned below the typed name.