



REQUEST FOR BOARD ACTION

ITEM NO. 24

DATE OF MEETING: July 7, 2014

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

SHORT TITLE: Resolution to Approve a Zoning Map Amendment for a General Use Rezoning of Two Tracts from OI, Office & Institutional District to RA, Rural Agricultural District.

BACKGROUND: The Way of Truth Free Gospel Church, applicant and owner, is requesting the approval of a Zoning Map Amendment for a general use rezoning of 7.42 acres from OI, Office & Institutional District, to RA, Rural Agricultural District. The property is located along the east side of US HWY 117 between River Road (SR 1501) and Church Street (SR 1312), just south of the Duplin/Pender County line and may be identified as Pender County PIN(s) 3314-28-1506-0000; 3314-18-8863-0000.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the approval of a Zoning Map Amendment for a general use rezoning of two tracts from OI, Office & Institutional District to RA, Rural Agricultural District.

RESOLUTION

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

The Pender County Board of Commissioners (approved, modified, denied) a Zoning Map Amendment for a general use rezoning as described herein, and 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 7/7/2014
Date

ATTEST 7/7/2014
Date

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: June 3, 2014 – Planning Board
July 7, 2014 – Board of Commissioners
Application Number: 11176 – Zoning Map Amendment
Applicant: The Way of Truth Free Gospel Church
Property Owner: Same

Rezoning Proposal: The Way of Truth Free Gospel Church, applicant and owner, is requesting approval of a Zoning Map Amendment for a general use rezoning of 7.42 acres from the OI, Office & Institutional to the RA, Rural Agricultural zoning district.

Property Record Number, Acreage, and Location: The subject property is located along the east side of US Hwy 117 between River Road and Church Street, just south of the Duplin/Pender County line and may be identified by Pender County PIN(s) 3314-28-1506-0000; 3314-18-8863-0000.

Staff Recommendation: The request complies with all criteria set forth in Article §3.3.8 of the *Pender County Unified Development Ordinance*. The proposed rezoning is consistent with the *2010 Comprehensive Land Use Plan* and does not conflict with any goals or policies in this document. Staff respectfully recommends approval for the general use rezoning of the 7.42 acres, OI, Office & Institutional, to RA, Rural Agricultural District. 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.

Planning Board Recommendation: The Pender County Planning Board, at their June 3, 2014 meeting, unanimously recommended approval of the rezoning request.

HISTORY:

According to the Pender County GIS, the subject property was rezoned to OI, Office & Institutional from the RA, Rural Agricultural zoning district with the adoption of the Pender County Unified Development Ordinance and official zoning map in June, 2010.

DESCRIPTION:

The subject property totals 7.42 acres and has direct access to US Hwy 117. The overall tract is divided by a 60' wide private roadway easement as recorded in Map Book 35, Page 29, which provides access to the property located east of the subject tract (Exhibit 2).

According to the submitted narrative (Exhibit 1), the applicant would like to develop the site to accommodate a religious use. Also, as stated within the narrative, the applicant would like to

utilize the RA zoning district to exercise flexibility within the parking standards, specifically in regards to acceptable materials allowable within the two separate districts.

According to the FEMA Flood Insurance Rate Maps (adopted February 16, 2007); the tract is not located within any Special Flood Hazard Areas (SFHA). The site does contain a portion of regulated wetland area containing approximately 0.665 acres which is located on the northern boundary of the tract. Any potential development of this area will require further evaluation and approval from the appropriate State and/or Federal agencies.

As defined, the OI, Office & Institutional District is intended to provide for institutional and office areas for government, professional and medical purposes. This district is compatible with and supports adjacent residential and business uses and will allow multifamily residential uses above non-residential uses. The Rural Agricultural 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. Development in this District should rely predominantly on individual wells and septic tank systems for domestic water supply and sewage disposal.

Currently, there is public water available to this site and any future development would be required to connect to this utility. There is public sewer running parallel to the site along US 117 but has been determined by Pender County Utilities that access to this service would not be supported due to the high volume flow and the necessity to install additional infrastructure. Any future development on this site will be further evaluated but at this time, on-site septic would be utilized.

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 classification is RA, Rural Agricultural District. Approximately ¼ mile south is a single tract zoned GB, General Business District and contains a 1,000 sq. ft. masonry structure built in 1920.
- C. **Existing Land Use:** The property is bordered by forested and agricultural tracts to the north and east. To the south, and west, contains very low density residential development along US Hwy 117.
- D. **2010 Comprehensive Land Use Compliance:** The 2010 Comprehensive Land Use Plan designates the subject property "Suburban Growth." 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, 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." "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.” (Sec. III 3.) 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 7.42 acres OI, Office & Institutional, to RA, Rural Agricultural District. 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.

Planning Board Action for Zoning Map Amendment:

Motion: _____ Seconded _____

Approved: X Denied: _____ Unanimous _____

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

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

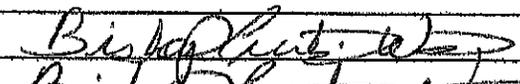
- A. Before making any recommendation on a rezoning request, the Planning Board shall consider any recommendations from the Administrator and shall conduct a public hearing where interested parties may be heard.
- B. The Planning Board shall make a recommendation based on the Approval Criteria listed 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 11176	Date	4/15/2014
Application Fee	\$ 530.00	Receipt No.	141090
Pre-Application Conference	4/15/2014	Hearing Date	6/3/14 - 7/7/14
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	The Way of Truth Free Gospel Church	Owner's Name:	The Way of Truth Free Gospel Church
Applicant's Address:	P.O. Box 185	Owner's Address:	P.O. Box 185
City, State, & Zip	Wallace, NC 28466	City, State, & Zip	Wallace, NC 28466
Phone Number:	910-285-3277	Phone Number:	910-285-3277
Legal relationship of applicant to land owner:			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	3314-28-1506/3314-18-8863	Total property acreage:	7.42
Current Zoning District:	OI	Proposed Zoning District:	RA
Project Address :	Hwy 117		
Description of Project Location:	Located on East Side of Hwy 117 between River Rd and Church Street just south of Wallace, NC		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	5-4-14
Owner's Signature		Date:	5-4-14
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 type="checkbox"/>	Signed application form					
<input type="checkbox"/>	Application fee					
<input 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 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 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 type="checkbox"/>	18 (11"x17") map copies to be distributed to the Planning Board					
<input type="checkbox"/>	20 (11"x17") map copies to be distributed to the Board of Commissioners					
<input 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: \$ <u>630.00</u>					
Attachments Included with Applications: (Please include # of copies)						
CD /other digital version	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Plan Sets	# of large	# of 11X17	Other documents/Reports	<input type="checkbox"/> Y <input type="checkbox"/> N
Payment Method:	Cash: <input checked="" type="checkbox"/> \$ <u>530.00</u>	Credit Card: <input type="checkbox"/> MasterCard <input type="checkbox"/> Visa		Check: <input checked="" type="checkbox"/> Check # <u>5006</u>		
Application received by:					Date: <u>4/15/14</u>	
Application completeness approved by:					Date: <u>4/15/14</u>	
Dates scheduled for public hearing:						
<input checked="" type="checkbox"/> Planning Board: <u>6/3/14</u>						
<input checked="" type="checkbox"/> Board of Commissioners: <u>7/9/14</u>						

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

Rezoning Narrative
Free Gospel Church of Christ
Pender County, NC

We are requesting that the Free Gospel Church of Christ properties (PIN's 3314-28-1506 & 3314-18-8863) be rezoned from the current OI: Office & Institutional District to RA: Rural Agricultural District. The Free Gospel Church is a proposed Religious use allowed by right in the RA zoning. The O&I Zoning does also allow the Religious use, but is required to be reviewed under the Master Development Plan process each time. The Free Gospel Church project consists of two existing vacant tracts totaling 7.42ac. The site is located at Hwy 117 between River Road and Church Street, just to the south of Wallace NC. The site can currently be accessed via a dirt driveway off of Hwy 117. We propose a new NCDOT driveway to access this project.

It is our opinion that this proposed development will not adversely affect adjacent properties. Allowing the site to revert back to RA district will give the Church an option to pave or gravel their parking areas. With the interest on environmental impacts of runoff, the Church had worked with their engineer to use a grassed parking technique in the design. During the review process it was found that this was not allowed within the O&I district. Although the grassed parking will still not be allowed in the RA, gravel parking is allowed and will be closer to the original design than a required paved area that is only parked on once or twice a week. The site will be designed using the Pender County ordinance requirements and will provide landscaping to meet or exceed these requirements. Stormwater design will be used to meet or exceed NCDENR's current standards for treatment of runoff. It is our opinion that the rezoning and development of this vacant lot along with the proposed improvements will be a benefit to the community.