MINUTES
Planning Board Meeting
Tuesday, March 5, 2024
Pender County Public Assembly Room
7:00 PM

MEMBERS PRESENT: Delva Jordan, Chairman
Damien Buchanan, Vice-Chairman
Jeffrey Pitts
Norman "Ken" Teachey
John Gruntfest

MEMBERS ABSENT: Jeff Beaudoin
Margaret Mosca

OTHERS PRESENT: Daniel Adams, Planning Director
Justin Brantley, Deputy Planning Director
Taylor Davis, Current Planner
Tucker Cherry, Current Planner
Adam Moran, Long Range Planner
Donna Sayre, Planning Technician
Trey Thurman, County Attorney
Members of the Public

1 CALL TO ORDER

Chairman Delva Jordan called the meeting to order at 7:02 pm.

2 ROLL CALL

3 INVOCATION

4 PLEDGE OF ALLEGIANCE

5 ADOPTION OF AGENDA

Motion to approve agenda made by Jeffrey Pitts, seconded by Ken Teachey.

Motion to approve

	For	Against	Abstained	Absent
Delva Jordan	X			
Damien Buchanan	X			
Jeffrey Pitts	X			
Margaret Mosca				X
John Gruntfest				
Jeff Beaudoin	X			X
Norman (Ken) Teachey	X			
	5	0	0	2

CARRIED.

.

6 PUBLIC COMMENT

No public comment.

7 PUBLIC HEARINGS

a) REZONE 2023-59 and REZONE 2024-63

Taylor Davis, Current Planner, presented the staff report.

Rhetson Companies, Inc., applicant, on behalf of Livvie R. Lewis, owner, is requesting the approval of a Conditional Zoning Map Amendment to rezone approximately 2.37 acres of a 5.65-acre tract from the RA, Rural Agricultural zoning district to the CZ-5, Conditional Zoning District 5. Specifically, the request is for a 12,480 square foot general retail store classified under NAICS (2007) code 452990, Other General Merchandise Stores. In conjunction with this request, the applicant is also requesting an amendment to the Future Land Use Map within the Pender 2.0 Comprehensive Land Use Plan from the Medium Density Residential future land use category to the Neighborhood Mixed Use future land use category.

The subject property is located across the intersection of Clarks Landing Loop Road where NC HWY 133 merges with NC HWY 210. The property fronts Little Kelly Road and NC HWY 210 in the Long Creek Township and may be further identified by Pender County PIN 3214-28-8318-000.

Ms. Davis stated that after the last hearing, Planning staff and the applicant worked to further delineate the allowable uses. She stated that NAICS 453, General Retail Stores, is now being replaced by NAICS 452990, Other General Merchandise Stores.
Ms. Davis stated that the change is to prevent undesired tenants in this area, such as tobacco or vape shops, which would have fallen under the previously proposed code.

Ms. Davis stated all the zoning district's dimensional requirements stayed the same except for the building height which was proposed to be forty feet but has been changed to twenty-five.

Ms. Davis stated that the applicant is expecting the hours of operation to be from 8:00 a.m. until 9:00 p.m., which is changed from the 10:00 p.m. closing time that was discussed at the previous hearing. She stated that the applicant anticipates six employees being hired at this location.

Ms. Davis stated that the applicant originally proposed three internally illuminated signs, which two were freestanding and one being a wall sign in the form of channel letters. She stated both freestanding stands were proposed to be one hundred square feet in size and plan to front NC Hwy 210 and Little Kelly Road. Ms. Davis stated that Variances would have been required due to the size of the signs. She stated that the Planning staff discussed with the Applicant who agreed with a conditional approval that all signs shall comply with standards set forth in Article 9, specifically 9.7, of the UDO. Ms. Davis stated that the applicant also agreed to two other conditions pertaining to signs. She stated that the first condition would be that monuments signs would be the only permitted free standing signs and no sign should be illuminated other than by uplighting and should be lit during posted store operation hours only. No light emitted by or for a sign shall cross property lines and shall be shielded.

Ms. Davis read the twelve proposed conditions of approval to the Board.

Riana Smith, Attorney for applicant, stated that they have worked hard with the Planning staff to address the comments and input of both the Board and the public after the last hearing was continued the previous month.

Ms. Smith stated that there are approximately sixteen different civil, religious, and commercial operations that are within the immediate area.

Ms. Smith stated that this Conditional Rezoning request is not going to adversely affect the area due to the commercial businesses already located in near proximity. She stated that there are no wetlands involved and the property is not in a flood area.

Ms. Smith stated that there are petroleum odors detected at the site due to a gas station being located on this property in the past. She stated that the remediation required for a commercial property to be located at this site would be much less than for a residential purpose.

Ms. Smith stated that her client is happy to comply with the restriction of uses imposed by the Planning staff.

Mr. Jordan asked if there were any questions from the Board for Ms. Smith and no questions were presented.

Adrianna Pickett, 154 Nixon Avenue, feels this request is unfavorable. She stated she is not against a smaller local business in this location but is against a big corporate one. Ms. Pickett stated she does not want Rocky Point to lose its small-town charm and integrity to corporate businesses. She also stated she is concerned with the additional traffic generated and safety issues.

Kate Lesala, 91 Grand Oaks Blvd., stated that since the last meeting, twelve additional violent gun crimes have taken place at this store in various states. She stated that there are no businesses of this magnitude located in proximity to this site. Ms. Lesala stated she is not sure how her property value will not be lowered if a Dollar General is allowed at this site. She stated traffic on NC Hwy 210 is a safety concern as there are already regular accidents in this intersection area.

Janet Higgins, 4912 Trellis Court, stated that she is the youngest daughter of Livvie and Horace Lewis. She stated that her parents bought the property from Wayne Clark's parents, and it has always been commercial. Ms. Higgins stated that her parents always wanted a store put in this location, especially her mother, due to her inability to drive once she aged and getting to the store outside of the community was a challenge. She stated her mother had all the gas tanks removed when she decided to close her dollar gas pump business.

Amie Beegle, 743 Clarks Landing Road, stated she spoke at the last meeting also and is not in favor of this rezoning. She stated that Rocky Point does not need a commercial zone in this area due to many undeveloped prime commercial lots remaining. Ms. Beegle stated that the traffic counts that are being used are outdated and unreliable. She stated that the only reason the Board would vote to approve the request would be to help the owners sell the land.

Greg Stewart, 186 Norris Farm Drive, stated they have been working hard with the Planning staff to address all the comments that were made by the Board in the previous meeting. He stated that due to traffic concerns at the last meeting, they had a design drawn up and sent to DOT and they are open to a one entry concept if DOT directs them in that direction. He stated that they are open to meeting any of the requirements that DOT imposes.

Dana O'Donnell, 18130 NC Hwy 210, stated that she and her family settled in Rocky Point due to what it offers and the lifestyle it can provide and does not want to move from their location. She stated that she does not want a dollar store within walking distance of her house. Ms. O'Donnell stated that fertile land will be lost if this rezoning is granted and that would not benefit the community. She stated she attended the community meeting that was held and no one from the community supported the rezoning.

Brian Morrison, 46 Russell Court, stated that there are several dollar stores within a ten-mile radius which makes putting one in this location unacceptable. He stated putting a dollar store in this area is going to serve nobody. Mr. Morrison stated that traffic and crime are also concerns of his.

Mr. Buchanan asked if this location was a gas station in the past. Mr. Adams stated that the County's records do not go that far back but based on public comment, it appears as though one was located at this site years ago.

Mr. Teachey stated that the slide that Ms. Smith presented with all the businesses in that area indicated were mostly agriculture related and did not have people coming and going all day long. He stated that a lot of the businesses shown on the slide were there long before zoning was put into place. Mr. Teachey stated that the Board has heard from a lot of people between this meeting and the last and they need to be listened to so he does not feel he can vote in favor of it.

Mr. Jordan stated he agrees with Mr. Teachey in that all the people living in the area have voiced their opinion against the request and not one person being in favor of it.

Mr. Teachey stated that the only people speaking in favor of the project are the people trying to sell the land and the people trying to buy the land.

Mr. Buchanan stated that the Board of Commissioners have the final decision in this matter as the Planning Board is only an advisory board. He stated that Pender County is growing and within a three-mile radius of this property, seventy-two homes have been built since 2022, with forty-six being in the last year. Mr. Buchanan stated that he is thinking about the long-term plan when discussing this request.

Mr. Buchanan stated that two of the concerns brought up in the last meeting were the appearance of the building and the signage. He stated that they asked the applicant to make adjustments and they have. The exterior of the building has been upgraded and the illumination of signage after closing at night has been changed. He also stated that the Board requested no high pylon signs, which the applicant agreed to eliminate.

Mr. Gruntfest stated that the responsibility that the Board has taken on sometimes can be difficult. He stated that all members of the Board do listen but there are tough decisions to be made at times. Mr. Gruntfest stated that what he gathered from the last meeting and this meeting was that the public would not be as upset if a small quaint family-owned store was in this location but not a big corporate store.

Mr. Pitts stated that an increase in population leads to an increase in needed business regardless of the location.

Mr. Teachey stated that there are plenty of shopping options within a very close distance of this property. He stated in the past there used to be a small country store on every corner because people did not drive as much as they do now, but now driving into Wilmington is not so uncommon as it used to be.

Mr. Pitts stated that he thinks this type of store bridges a gap and does not think a dollar store will increase or add any additional crime to the area.

Mr. Buchanan asked if this request was to be approved, would a buffer of trees on Little Kelly Road be possible. Mr. Adams stated that a buffer is already required and so there will be some type of trees running along Little Kelly Road.

Mr. Jordan asked if the Board had any additional questions for the applicant, and none were presented.

Mr. Jordan asked about the appearance of the building. Mr. Adams stated that the brick façade will be on all sides of the building except for the side facing the septic area.

Mr. Jordan asked for clarification of the buffer requirement along Little Kelly Road. Mr. Adams stated that an “A” buffer is required which is a standard requirement for property lines adjacent to a street. To further explain an “A” buffer, Mr. Adams read the section of the UDO pertaining to “A” buffers.

Mr. Jordan asked if there were any additional questions for staff and no questions were presented.

Mr. Pitts made a motion to approve the Future Land Use Map Amendment and to make a finding that the approval is consistent with policies and goals 5.1.C, 5.1.D, 5.1E, 5.1.F, and 5.1.K in the Pender 2.0 Comprehensive Land Use Plan. Mr. Buchanan seconded the motion.

Motion to approve

	For	Against	Abstained	Absent
Delva Jordan		X		
Damien Buchanan	X			
Jeffrey Pitts	X			
Margaret Mosca				
John Gruntfest	X			
Jeff Beaudoin				X
Norman (Ken) Teachey		X		
	3	2	0	1

CARRIED.

Mr. Buchanan made a motion to approve the Conditional Zoning Map Amendment and to make a finding that the approval is consistent with policies and goals 5.1.C, 5.1.D, 5.1E, 5.1.F, and 5.1.K in the Pender 2.0 Comprehensive Land Use Plan. He stated that this area is growing and needs additional services for that growth. The motion includes the twelve conditions provided by Planning staff and the only use allowed is NAICS code 452990. Mr. Buchanan stated that NAICS codes 459991 and 453998 which encompass tobacco, vaping and potential cannabis dispensaries are strictly prohibited. Mr. Pitts seconded the motion.

Motion to approve

			Abstained	Absent
Damien Buchanan	X			
Jeffrey Pitts	X			
Margaret Mosca				
John Gruntfest	X			
Jeff Beaudoin				X
Norman (Ken) Teachey		X		
	3	2	0	1

CARRIED.

Mr. Adams stated that this matter will be heard by the Board of County Commissioners on April 15, 2024, and adjacent property owners will once again receive mailers notifying them of the meeting. He stated that the meeting will be held in the same room in Burgaw at 7:00 p.m.

Mr. Buchanan made a motion to take a five-minute recess with Mr. Teachey seconding the motion.

	For	Against	Abstained	Absent
Delva Jordan	X			
Damien Buchanan	X			
Jeffrey Pitts	X			
Margaret Mosca				X
John Gruntfest	X			
Jeff Beaudoin				X
Norman (Ken) Teachey	X			
	5	0	0	2

CARRIED.

b) ZTA 2023-21

Adam Moran, Long Range Planner, presented the staff report.

Pender County Planning & Community Development, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to remove the process of obtaining new Special Use Permits for certain specific land uses, mainly in residential zoning districts. Special Use Permits that have been approved previously would remain in place. Uses that are no longer allowed by Special Use Permit would require approval through the Conditional Rezoning process.

Mr. Adams stated that the burden on proof lies with the applicant for a Special Use Permit.

Mr. Adams, Mr. Moran, Mr. Thurman, and the Board members discussed Special Use Permit and quasi-judicial procedures and hearings.

Mr. Buchanan asked if all Conditional Rezoning requests go before the Technical Review Committee to which Mr. Adams responded affirmatively.

Mr. Buchanan and Mr. Pitts both asked how much of the county is zoned RA.

Mr. Brantley stated that over 60 percent is zoned RA.

Mr. Buchanan stated that this request is putting more restrictions on property, which he has a real problem with as an advocate of property rights.

Mr. Buchanan made a motion to table this matter for further staff review, board member discussion, and if this matter could potentially be rolled into the scope of services with the current consultant firm handling the Comprehensive Land Use Plan. Mr. Pitts seconded the motion.

Motion to table

	For	**Against**	**Abstained**	**Absent**
Delva Jordan	X			
Damien Buchanan	X			
Jeffrey Pitts	X			
Margaret Mosca				X
John Gruntfest	X			
Jeff Beaudoin				X
Norman (Ken) Teachey	X			
	5	0	0	2

CARRIED.

8 APPROVALS AND RESOLUTIONS

NC 210 East Coast Greenway Feasibility Study

Adam Moran, Long Range Planner, presented the staff report.

The Cape Fear Council of Governments, in partnership with the Pender County Planning and Community Development Department, the Town of Surf City, and other partnering organizations as well as contracted consultant McAdams, have completed the NC 210 East Coast Greenway Feasibility Study. The study was completed last year and has been adopted by the Cape Fear Rural Transportation Planning Organization and the Town of Surf City. The feasibility study was conducted by a project team and steering committee which included staff members from the Cape Fear Rural Transportation Planning Organization, Duke Energy, the East Coast Greenway Alliance, Friends of the Mountains-to-Sea Trail, the Greater Topsail Area Chamber of Commerce and Tourism, North Carolina Department of Transportation, NC State Parks, Pender County, the Terry Benjey Cycling Foundation, the Town of Surf City, and the Wilmington Urban Area Metropolitan Planning Organization.

The plan studied potential alignments of the East Coast Greenway and Mountains-to-Sea Trail, which are planned to connect near where NC 210 heads towards Surf City from US Highway 17. The study team also engaged with the public to gain feedback and insight into local needs and desires for greenway facilities in the Hampstead and Surf City areas. Two public engagement meetings were conducted in the fall of 2022 and winter of 2023. These meetings found a desire to allow children to travel to school and for citizens to access businesses from the greenway. An online survey, which garnered 1,774 responses and elicited 1,500 comments found that greenway facilities like the East Coast Greenway are highly desired for transportation and creation, with other noting that the facility could be a draw for tourism, especially in the beach areas. There is concern that the current conditions do not allow for safe connections for pedestrians and bicyclists in the area.

Public engagement events found that safe biking and walking routes and crosswalks are desired amenities that would encourage more people to walk or bike. When asked, respondents noted that they would be willing to travel three to ten miles (or more) on the greenway.

Mr. Buchanan stated that he is in support due to walking the bridge in Surf City daily and would utilize any extension. He feels that walking and biking are good healthy practices that many people enjoy.

Mr. Teachey expressed his support for putting Pender County's citizens safety first and foremost.

Mr. Buchanan made a motion to adopt the NC 210 East Coast Greenway Feasibility Study. Mr. Teachey seconded the motion.

Motion to table

	For	**Against**	**Abstained**	**Absent**
Delva Jordan	X			
Damien Buchanan	X			
Jeffrey Pitts	X			
Margaret Mosca				X
John Gruntfest	X			
Jeff Beaudoin				X
Norman (Ken) Teachey	X			
	5	0	0	2

CARRIED.

9 DISCUSSIONS

Mr. Adams informed the Board members that at the February 20, 2024, Board of Commissioners meeting, the Commissioners approved a contract with Clarion and Associates. He stated that the firm is located in Chapel Hill and will be writing the new Comprehensive Land Use Plan.

Mr. Jordan stated that the Board used to have trainings at least four times a year but he cannot recall when that happened last. Mr. Buchanan agreed with Mr. Jordan by stating that having regular refreshers would be nice and is needed. Mr. Adams stated that having training or speakers is an excellent idea and he will work on implementing the request.

10 NEXT MEETING DATE

April 3, 2024, at 7:00 p.m.
Pender County Public Assembly Room
805 S. Walker Street
Burgaw, NC 28425

11 ADJOURNMENT

Mr. Pitts made a motion to adjourn with Ms. Buchanan seconding the motion. The vote was unanimous.

Motion to approve

	For	**Against**	**Abstained**	**Absent**
Delva Jordan	X			
Damien Buchanan	X			
Jeffrey Pitts	X			
Margaret Mosca				X
John Gruntfest	X			
Jeff Beaudoin				X
Norman (Ken) Teachey	X			
	5	0	0	2

CARRIED.