

DEPARTMENT OF PLANNING & DEVELOPMENT

PLANNING STAFF REPORT

REZONING CASE # RZ1305-2

STAFF PROJECT CONTACT: Jordan McMillen



EXPLANATION OF THE REQUEST

This is a request to amend the zoning map and to rezone a proposed parcel from Agricultural Residential (A-R) to General Commercial-1 (G-C-1). The applicant has operated a landscaping business, a produce business and a home-made ice cream business on property behind this parcel for several years. The applicant has requested the rezoning in order to consolidate the produce and home-made ice cream businesses within a newly constructed commercial building.

OWNER/APPLICANT

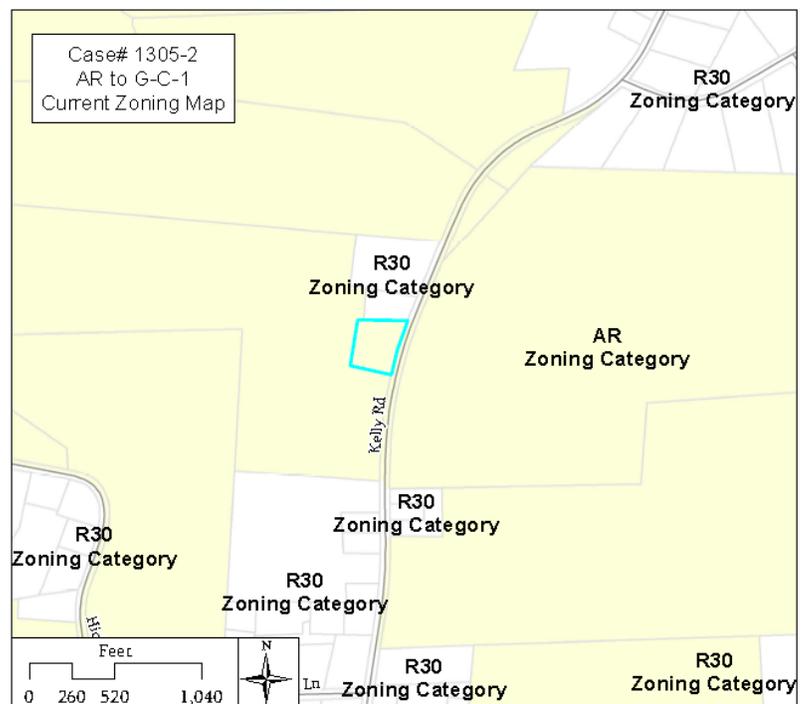
Robert & Linda Glover
P.O. Box 915 (675 Kelly Road)
Henderson, NC 27536

PROPERTY INFORMATION

LOCATION: Kelly Road; more specifically identified as a portion of tax parcel 0402 01001.

EXISTING LAND USE: The parcel is currently zoned as A-R and was subdivided into 11 lots in 1985. The subdivision has never been developed. The land is predominantly agricultural in character with an existing landscaping business present.

SURROUNDING LAND USE: The surrounding land use is predominantly agricultural and residential in character. The commercial businesses that are present (landscaping and produce sales) while being commercial are agricultural in nature. The proposed property is surrounded by A-R zoning on the west, south and east, with R-30 zoning to the north.



SIZE: The proposed parcel is 2.428 acres and includes a portion of two previously subdivided parcels from 1985. These parcels were never mapped out separately for tax purposes and were never developed.

ZONING HISTORY: All lots to date in this area have been zoned as they were since countywide zoning was established in November 2011. If plans would have been in the works when zoning was adopted, there is great potential that this area could have been zoned G-C-1 at that time. The property owner confirmed that the property has always been commercial in nature even if not always actively participating in a commercial activity. At the time of zoning adoption it was more advantageous for the property owner to have the property zoned A-R as it currently is.

IMPACTS

This rezoning has the potential to allow all commercial uses, but the proposed business would be similar to a farm stand. As it currently stands, a farm stand would be exempt from zoning as products to be sold are grown on the farm. With inclusion of ice cream sales it would be necessary to receive a rezoning as this is a product not produced from the farm. Any further development of the property in a commercial manner would require additional permits and would be required to meet zoning ordinance provisions. The impact of this particular business has minimal impacts to traffic, schools and Fire/EMS. While a commercial business of a greater intensity could have greater impacts, the same commercial businesses have existed in close proximity within a home for several years.

STAFF COMMENTS

The rezoning while opening the property up for further commercial uses appears to be reasonable. In the interest of matching the current use of the property with the appropriate zoning category, it would be suitable to rezone the parcel to G-C-1. The only other option besides a rezoning would be to consider the ice cream portion of the business as a home occupation business. Based upon these options, the property owner has requested a rezoning.

Due to the nature of the rezoning creating a parcel that is zoned differently than the surrounding parcels (possible case of spot zoning), it is important to consider whether the rezoning is reasonable. This is important as spot zoning is not illegal within North Carolina, but does require such a case-by-case analysis to determine the reasonableness of the rezoning. In order to do this it is important to look at the size and nature of the tract (larger areas more likely to be reasonable), the compatibility with existing plans, the impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community, and the degree of difference between the existing and proposed new use. Overall in this regard, there is evidence of spot zoning, but it is reasonable to conclude that the impacts of this use would be similar as this area has included other commercial businesses in the past and currently. In essence, such a rezoning would allow the zoning to match more closely to the current uses of the property with the existing landscaping business, produce business, and ice cream business which has existed in another portion of the property for some time. While this business would be located in a rather rural portion of the county, it is reasonable to assume that commercial businesses can and should be scattered in certain instances within these areas particularly if the commercial business is one that supports and is based upon the rural area.

Overall, the greatest factor in support of this proposal is the fact that the same uses have existed previously in close proximity. While movement of the businesses from one location or structure to another compromises the grandfather provision, it still provides evidence to support the rezoning. Staff recommends approval of the rezoning request.

Attachments: Rezoning Application, Aerial View Map, Survey Map



Vance COUNTY

NORTH CAROLINA

Rezoning Process

Vance County Planning & Development Department

156 Church Street, Suite 3
Henderson, NC 27536
Ph: (252) 738-2080
Fax: (252) 738-2089

For Administrative Use Only:

Case #	R2 201305-2
Fee Paid	\$250 ck# 1268
PB Date	5/9/2013
BOC Date	

Property Owner Information

Property Owner: Robert + Linda Glover
Mailing Address: P.O. Box 915
City: Henderson State: NC Zip Code: 27536
Phone #: (252) 492-1846 Fax #: (252) 492-0195
E-mail Address: glovergrading@ncol.net

Applicant Information

Applicant: Robert + Linda Glover
Mailing Address: P.O. Box 915
City: Henderson State: NC Zip Code: 27536
Phone #: (252) 492-1846 Fax #: (252) 492-1846
E-mail Address: _____

Property Information *For multiple properties please attach an additional sheet.*

Property Address: 675 Kelly Road
Tax Map Number: _____ PIN (parcel identification #): Portion of 0402-01001
Existing Zoning: A-R Proposed Zoning: G-C-1
Acreage: 2.428 Acres Road Frontage: _____
Existing Use: Produce Sales

Deed Reference

- Metes and bounds description attached
- Site plan/sketch of proposal attached



Vance COUNTY

NORTH CAROLINA

Rezoning Process

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Statement of Justification

1. Would the amendment correct an error in the zoning map? NO YES: Please explain below:

We have been operating a business (Glover Landscape Supply Inc.) since 1990 at this location and should have been zoned commercial at time zoning was done in the county.

2. Have conditions changed in the area to justify the requested amendment? NO YES:

Please explain below:

Conditions same

3. What factors justify the proposed amendment?

Same as above.

Property Owners Signature

Robert Glover Linda A. Glover Date 4-15-13
Please sign in blue or black ink

Applicants' Signature

Robert Glover Linda A. Glover Date 4-15-13
Please sign in blue or black ink

Case# 1305-2
AR to G-C-1
Current Zoning Map

0402 01002
TILLOTSON GARY W

0402 01003
TILLOTSON GARY W

0402 01002
TILLOTSON GARY W

Kelly Rd

0402 01012
GLOVER ROBERT C. & LINDA
**R30
Zoning Category**

0402 01013
GLOVER ROBERT C JR

0402 01001
GLOVER ROBERT C. & LINDA

0205 01003
BOYD JERRY DEAN

**AR
Zoning Category**

0205 01023
FRANKLIN MELVIN D. & TABITHA

**R30
Zoning Category**

0405 01001
TERRELL JACKIE J. SALLIE J.

