

## PLANNING STAFF REPORT

### Zoning Text Amendment

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#### SUMMARY:

**Hearing Date:** Planning Board – August 6, 2013  
Board of County Commissioners – August 19, 2013

**Applicant:** Administrator, Division of Planning

**Application Number:** ZTA 10995 Pender County

**Text Amendment Proposal:** The request consists of amending to the Pender County Unified Development Ordinance, specifically amending Section 5.2.3. Table of Permitted Uses by adding and modifying NAICS uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural zoning districts; the amendment will modify Section 5.3.6, adding use standards to Sewer Treatment Facilities to be located within the RM and PD zoning districts; the amendment will also modify Section 7.10, Off-Street Parking and Loading/Parking Requirements by adding a Parking Study option.

**Background:** The following text amendment is the result of various administrative discussions and situational circumstances that have been brought to Staff's attention since the effective date of the Pender County Unified Development Ordinance.

**Administrator Recommendation:** The Administrator respectfully recommends amending the Unified Development Ordinance as described in the staff report and supplemental information.

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The following outline describes the proposed amendments by topic. The proposed amendments clarify recent issues that have been brought to staff's attention regarding allowable uses within the Table of Permitted Uses and Parking. Detailed information of all the changes is included in the informational packet which has been distributed to accompany this report.

#### **Table of Permitted Uses 5.2.3**

##### *NAICS 221320 Sewer Treatment Facilities (Attachment 1)*

Staff has been approached as to the use of sewage treatment facilities within the RM, Residential Mixed zoning district. Sewage treatment facilities are defined as: *Any device or system used in the storage, treatment, disposal or reclamation of sewage and industrial wastes generated by more than two uses or dwellings.* Currently this use is not permitted within the RM district.

The RM, Residential Mixed zoning district is outlined in section 4.7.3 of the Pender County UDO as a district designed to allow for a variety of conventional built and multifamily housing types which can be accommodated dependent on necessary infrastructure including but not limited to community or regional utilities and infrastructure. A variety of housing types as referenced within the Table of Permitted Uses shall be allowable, however only one housing type is required for development. The type of development should be compatible with surrounding land uses and consistent with the goals and policies of the Comprehensive Land Use Plan. The density development standards shall be

calculated similar to the Planned Development (PD) District. The PD District currently allows the use of a sewage treatment facility with the approval of a Master Development Plan (MDP). As Pender County has no other form of wastewater treatment the use of a sewage treatment facility would be required to achieve densities described in the RM district.

In order to protect adjacent land uses, design standards have been applied to both the RM and PD Districts. The standards will allow the sewer treatment facility to be approved with the MDP for both the RM and PD districts; however will require a Special Use Permit for sewer treatment facilities not located within the boundary of the Master Development Plan.

*NAICS 713940 Fitness and Recreational Sports Centers (Attachment 2)*

Fitness and recreational sports centers comprised of establishments primarily engaged in operating fitness and recreational sports. These facilities feature exercise and other active physical fitness conditioning or recreational sports activities such as; swimming, skating, or racquet sports as described in the North American Industry Classification System (NAICS).

Staff is recommending adding uses that fall within the classification of NAICS 713940 by Special Use Permit in the RA, Rural Agricultural zoning district. After reviewing the types of uses that fall into this category, the uses may be appropriate within the RA district depending on locational criteria. These types of uses include:

Aerobic dance and exercise centers, athletic club facilities, body building studios, dance centers, aerobic centers, exercise centers, fitness centers, fitness salons, fitness spas without accommodations, gymnasiums, handball club facilities, health club facilities, health spas without accommodations, health studios, ice skating rinks, physical fitness centers, physical fitness facilities, physical fitness studios, racquetball club facilities, recreational sports club facilities, rinks, ice or roller skating, roller skating rinks, spas without accommodations, sports club facilities, squash club facilities, strength development centers, swimming pools, tennis club facilities, tennis courts, wave pools, and weight training centers.

The uses listed above are similar in intensity to the uses which fall under NAICS 713990, which are currently allowed by Special Use Permit in the RA zoning district. By allowing uses under NAICS 713940 to be permitted by Special Use Permit, site-specific proposals may be presented. This allows for specific concerns to be addressed or additional conditions be placed on the proposed use.

*Section 7.10, Off-Street Parking and Loading/Parking Requirements (Attachment 3)*

The proposed amendment serves to create a process that will bring greater flexibility in both the administration of and compliance with the parking requirements of the Unified Development Ordinance. Currently, commercial site development applicants are required to comply with 7.10.1 Minimum (minimum parking requirements) for their commercial development(s). The minimum parking requirements, when strictly enforced, do not apply to all developments uniformly. Accordingly, staff has identified a "Parking Study Option" which may be utilized through the commercial development process as an alternative to the current parking minimum in the Unified Development Ordinance.

Staff is proposing to allow flexibility within the prescribed parking standards by requiring sufficient evidence to be submitted by a traffic/parking professional. This evidence shall address several key

factors affecting a reduction to ensure that the public health, safety and general welfare of all stakeholders are being met. Some factors include; site specific access, mix and traffic loads, anticipated parking turnover, and alternative transportation option availability. The potential to reduce impervious surfaces may allow for the improvement of water quality by limiting the amount of run-off produced from a surplus of parking areas.

Currently, the Unified Development Ordinance requires parking to be enforced as stated below:

7.10 Off-Street Parking and Loading/Parking Requirements

*Off-street parking spaces shall be provided for all uses listed below in the amounts specified below. Uses not listed shall be reviewed by the Administrator for a determination of the required spaces. Buildings with multiple uses shall calculate parking based on the square footage of each use in the building.* Generally, minimum parking requirements are based on the square footage, number of employees or service areas. However, these requirements may not always correspond directly with actual realized parking utilization rate(s).

**Evaluation:**

**As prescribed in the Pender County Unified Development Ordinance (UDO) Article 3.18.5** in evaluating any proposed ordinance text amendment, the Planning Board and the County Commissioners shall consider the following:

- 1) The extent to which the proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements;
- 2) The extent to which the proposed text amendment represents a new idea not considered in the existing Ordinance, or represents a revision necessitated by changing circumstances over time;
- 3) Whether or not the proposed text amendment corrects an error in the Ordinance; and
- 4) Whether or not the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law.

In deciding whether to adopt a proposed Ordinance text amendment, the central issue before the County Commissioners is whether the proposed amendment advances the public health, safety or welfare and is consistent with any adopted County Land Use Plan documents and the specific intent of this Ordinance.

**Comprehensive Land Use Plan Compliance:**

The following goals and policies within the Pender County Comprehensive Land Use Plan may be relevant to the proposed Zoning Text Amendment request:

**Policy 1A.1.4** The County should develop and utilize innovative and flexible land planning techniques that encourage developments to efficiently use land resources that result in more compact urban areas, infill development, redevelopment, and the adaptive re-use of existing buildings.

**Policy 1A1.5** The County supports a pro-business/pro-growth attitude, balanced by a concern for preserving the natural assets and quality of life factors that make the area attractive to visitors and permanent residents alike.

**Policy 2A.1.2** Allow the use of package treatment plants only in areas where development is desirable but public sewer service is not feasible. If package treatment plants are use they should be designed to enable, at minimum public cost, the conversion of the system to public ownership, operation and maintenance in the future when public sewer service is viable, and cost effective

**Policy 3A1.2** Use the creation of the Unified Development Ordinance (UDO) as an opportunity to allow more development flexibility while setting higher standards for sustainable development.

There are no conflicting policies within any adopted land use documents.

**Staff Recommendation:**

The proposed text amendment is consistent with the Unified Development Ordinance and Comprehensive Land Use Plan. Therefore, staff is recommending approval of the amendments as presented.

**Planning Board**

**Motion:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

**Approved:** \_\_\_\_\_ **Denied:** \_\_\_\_\_ **Unanimous** \_\_\_\_\_

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