

Pender County Planning and Community Development

Planning Division

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MINUTES

**Pender County Planning Board Meeting
June 3, 2014 7:00 p.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina**

Call to Order: Chairman Williams called the meeting to order at 7:10 pm.

Roll Call: Chairman Williams

Pender County Planning Board Members:

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

- 1. Adoption of the Agenda:** Vice-Chairman McClammy made the motion to adopt the agenda; seconded by Board member Baker. The vote was unanimous.
- 2. Adoption of the Minutes: (May 6, 2014/May 15, 2014)** Vice-Chairman McClammy made the motion to adopt the minutes; seconded by Board member Nalee. The vote was 4 for approval of the adoption and 1 abstained.
- 3. Public Comment:** Chairman Williams asked if there were any signups for public comment; Attorney Thurman answered that John Wasterval had signed up to speak. Chairman Williams asked Mr. Wasterval to come to the podium. Mr. Wasterval stated that he has owned some property in Pender County off of US HWY. 17, Hampstead, for over 20 years. Mr. Wasterval explained that he had a young man that wanted to rent a portion of his old seafood market for a business, that the young man was turned down for the business and that he himself received a Notice of Violation from the Pender County Code Enforcement Officer, for illegal storage containers located on the property. Mr. Wasterval stated that when he called the Code Enforcement Officer to inquire about the violation, he was told that the County's Code Enforcement department was a complaint driven department, Mr. Wasterval stated that he asked if there was a complaint filed against him and was told no, that when the Code Enforcement Officers went out to the property to give an ALE inspection he saw the containers and could not approve the inspection and had to file the Notice of Violation against the property owner. Mr. Wasterval explained that since this incident he had taken pictures of 68 business which have storage containers on the property, that he didn't want to turn in his fellow people, but why should he have to move his if they are everywhere in the County. Vice-Chairman McClammy asked Mr. Wasterval what was his request from the Board; Mr. Wasterval answered he would request that the Ordinance be changed or an exception be made in this case. Chairman Williams thanked Mr. Wasterval for coming forth and expressing his concern, but advised Mr. Wasterval that the Planning Board members could not act on anything at this time, proper procedures would have to be followed, the Planning Board could however start the discussion at the end of tonight's meeting or a future meeting to look toward possible changes. Due to no more signups, Chairman Williams closed the floor to public comments and opened the floor for the public hearings.

(Public Hearings Open)

4. Master Development Plan:

Parker & Associates, Inc., applicant, on behalf of Parks Family Forestry LLC, owner, requested the approval of a Master Development Plan for a 2-phase single family residential subdivision. The request consisted of developing 73 single family residential units to be located on ±46 acres of a 124 acre tract. The subject property is located on the north side of Island Creek Road just east of the New Hanover County line, west of Hunter Court (Wood Cliff Estates), Rocky Point. The property is zoned RA, Rural Agricultural and RP, Residential Performance Districts and may be identified as Pender County PIN 3252-97-7356-0000. Planner Megan O'Hare presented and gave background information for agenda item 4. Board member Edens asked if this was the same property that came before the Board for a Zoning Map Amendment and would there be additional requirements; Planner O'Hare answered yes that it was the same property, and they would change their project boundary for the Master Development Plan to include some of the rezoned property as their open space, but would not be included in the development. Chairman Williams asked if there were any questions for staff, due to no questions Chairman Williams asked to hear from the applicant. Laura Morris, Staff Planner with Parker & Associates, stated that she had been working very closely with Planner O'Hare to iron out the details of the Master Development Plan, that they were not sure at the time what the busing situation would be, but they are willing to do whatever is needed regarding the cul de sac radius once the needs are established and a cul de sac has been identified. Ms. Morris explained that a swimming pool and bathroom facilities had been omitted from the plan, but will include a drive with a parking lot, with a walk leading to the kayak launch, where an open air pavilion will be located. Ms. Morris stated that there were comments made about community mail boxes, the developer was proposing to have 2 community mailbox areas and identified those areas. Ms. Morris stated that the project engineer and she were available for any further questions that the Board may have. Board member Nalee asked for clarity on where the archaeological site was located on the applicant's site map; Ms. Morris pointed out the location. Chairman Williams asked if the Board had any other questions, if there were no more questions he would entertain a motion. Vice-Chairman McClammy stated that there were two items that staff requested a deposition from the Board, and asked staff for clarification on those items; Planner O'Hare explained that staff was requesting the Board to make deposition regarding the radius of the two named cul de sacs, if the Board wished to leave them as presented or follow the recommendations of the Pender County Schools and Pender County Emergency Management. Planner O'Hare reminded the Board that they would see the plan again during the Preliminary Plat hearing. Vice-Chairman, mentioned that the other item staff requested a deposition on was the preservation of Stevens Line historical site; Chairman Williams asked Ms. Morris if the developer was in agreement to maintain that site; Ms. Morris responded that the developer was leaving that up to the Board to decide, that the developer has agreed with Nathan Henry, Assistant State Archaeologist and Conservator, of the Archaeology Branch NC Office of State Archaeology, that they would pay for an Archaeology study of the area. Chairman Williams stated that since the site had been documented as and historical site, it would be great if the developer could preserve it. Ms. Morris asked if the Board would give their approval on preserving the majority of the site not all of it, due to the road layout of the development; Vice-Chairman McClammy asked what would be the applicable County or State regulations pertaining to the site; Director Breuer answered that staff has had similar projects and the Pender County Unified Development Ordinance is not going to be specific on requiring an archaeological site be preserved. Planner O'Hare stated that staff may recommend that a decision from the Board be made at the Preliminary Plat hearing, once the Archaeology Study was completed and available for the Board to review; the Board agreed that they would like to review the study prior to making a decision on preservation of the site. Chairman Williams asked if all questions were clarified and if there were any other questions, due to no further questions, Chairman Williams asked for a motion.

Board member Edens made a motion to approve the Master Development Plan as presented with the follow up of the two items discussed, the radius of the cul de sac and the preservation of the

historical site, and staff's recommendations; seconded by Board member Baker. The vote was unanimous.

5. Zoning Map Amendment:

The Way of Truth Free Gospel Church, applicant and owner, requested 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 and Church Street, 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. Director Breuer presented and gave background information for agenda item 5. Board member Nalee stated that this agenda item was on the last agenda, but was withdrawn, why? Director Breuer answered that the applicant had proposed a Master Plan in accordance with the Office & Institutional District requirements, but when it was identified that there would be paving requirements, the owner of the property withdrew their application and decided to request a rezoning. Board member Edens asked to clarify that there was not a church on the property at this time; Director Breuer answered that was correct, but if the property was rezoned all uses allowed in the Rural Agricultural District would be allowed if the applicant wished to change their plans. Chairman Williams asked if the right of way cutting through the parcels was under a different ownership; Director Breuer answered that to his knowledge it was. Chairman Williams asked how the current zoning came to be; Director Breuer stated that it was identified as Office & Institutional when the Pender County Unified Development Ordinance was adopted and clarified that before it was Rural Agricultural. Chairman Williams asked if the applicant wished to speak; Charles Cazier, Intracostal Engineering, stated that they agree with what Director Breuer has presented, that they view it as a down zoning, and if approved the property will be more in conjunction with the neighboring properties. Chairman Williams asked to hear from anyone who had signed up for public comment. Dr. Barden, adjoining property owner, stated that he has an issue with water runoff as the property is now, if the Board approved the rezoning and the church was built without a paved parking lot, the water run off on to his property would be increased and left for him to deal with, so therefore he was opposed to the request. Director Breuer requested that the engineer address any potential issues of storm water that may be produced due to development; Mr. Cazier stated that the proposed treatment of storm water has not changed, the only difference will be, is that they will have the option to pave or not to pave the parking lot. Dr. Barden stated that he could see how the water would be controlled with a pavement, but how would it be controlled with rock; Mr. Cazier replied it would be controlled based off of the grading. Board member Baker asked Attorney Thurman if there were any statute or law that said a party is responsible for runoff water that damages other properties; Attorney Thurman responded that depending on the situation, that in general if it is the natural water flow then no, but if someone impedes natural water flow there are ramifications. Chairman Williams asked if there were any more questions from the Board, due to no further questions Chairman Williams asked for a motion.

Board member Edens made a motion to approve the Zoning Map Amendment as presented; seconded by Vice-Chairman McClammy. The vote was unanimous.

(Public Hearings Closed)

6. Discussion Items:

a. Planning Staff Items:

Director Breuer stated that there were a couple of items for discussion, Parking Standards, Introduction to a Development Agreement (item from Work Session), and a discussion/presentation from Blake Farm. Director Breuer asked the Board for direction on the order they would prefer to follow; Board members agreed to hear the Blake Farm presentation first.

i. Blake Farm: Director Breuer gave an overview of the project known as Blake Farm and introduced Raiford Trask, Steve Shuttleworth, and Richard Collier. Director

Breuer stated that he felt it would be beneficial to the Board if these gentlemen came before the Board to discuss their project and the details of a development agreement. Mr. Raiford Trask, Trask Land, thanked the Board for taking the time to hear their presentation, and stated that they have enjoyed working with the Planning Staff. Mr. Trask presented slides outlining the project's Vision, Amenities, and Cape Fear Heritage Architecture. Mr. Trask stated that the Vision was very much focused on Pender County, Scott's Hill in particular; that he was a big believer in maintaining the community fabric. Mr. Trask provided pictures of a few homes that would be similar to the type of homes built in the development and reviewed the concept of Cape Fear Heritage Architecture, stating that it makes things look like they belong in a setting. Mr. Trask gave an overview of the types of amenities the development would offer such as a community farm and natural activity sites to reduce the cost of home owner dues. Mr. Trask stated that he would be available for any questions, but at this time he would ask Mr. Collier to address the Board. Richard Collier, Project Engineer, stated that his firm McKim and Creed were the Civil Engineers for Blake Farm; Mr. Collier gave an overview of the proposed design of the project including the roadways, stating that the goal would be to design the project while maintaining the natural integrity of the land through limiting the impervious surface and low impact development techniques for storm water management. Mr. Collier presented the Board with maps of the proposed roadway system and explained the system. Director Breuer explained how a Development Agreement would be able to capture an issue such as the one with schools, being at and over capacity, and eventually a need for a new school, so performance standards could be placed in the Development Agreement that would serve as an outline of requirements that need to be met. Director Breuer further explained examples of a Development Agreement. Board member Nalee asked if an agreement would be in order before the approval of Phase I; Director Breuer answered that would be up to the Board. Vice-Chairman McClammy asked what was a general timeline for a Development Agreement; Director Breuer answered that it could take up to nine months. Chairman Williams encouraged working toward creating an agreement. Director Breuer thanked the Board for allowing the time for the Blake Farm presentation and discussion; the Board thanked Mr. Trask and Mr. Collier for their presentation. Director Breuer stated that he would provide a synopsis of a Development Agreement to the Board via email.

- ii. **Parking Standards:** Director Breuer stated that this item was a follow up from a question asked by Board member Edens, regarding parking standards for small commercial uses within certain zoning districts. Board member Edens explained that she was shocked to find out that the parking lot would have to be paved to DOT's standards, when it is just a small parcel with a residential home converted to a small business office; Board member Edens stated that it just didn't seem right with the County trying to be environmentally conscious, that there was the option of requesting a Variance, but she felt it would be more beneficial for the County to fix the problem instead of working around it. Board member Edens stated that she believed the previous Ordinance gave some leeway for when your use required less parking spaces; Director Breuer confirmed that the old Ordinance only listed standards for parking with five or more spaces. Board member Edens stated that the Board might be able to review the requirements when it is time to review the UDO for updates, but in the meantime would there be a possibility of a short term fix of the situation. Director Breuer stated that if it was the Board's direction to request a Text Amendment, then staff would follow their normal procedure of drafting the language and presenting it to the Board; Chairman Williams commented that he felt it would be a positive to look into creating a Text Amendment. The Board

recommended that staff move forward with creating a Text Amendment to address the situation.

b. Planning Board Members Items:

- i. Portable Storage Units:** Board member Nalee asked what could be done to help Mr. Wasterval; Director Breuer explained that it is not policy to go out actively looking for violations, that if a complaint is received or if the Code Enforcement Officer or a Building Inspector sees something then an investigation will be done and if a violation is determined then a citation will be given. Director Breuer gave a brief background on what staff had previously presented to the Board regarding portable storage units and the Board's recommendation at that time was to leave the Ordinance as is; so now that it has come before the Board during Public Comment, what direction would the Board like for staff to follow. The Board had a brief discussion regarding their views on the subject. The Board directed staff to look into allowing the portable storage units in certain districts, with standards, and time limitation. Director Breuer commented that staff would present a proposal as strict as possible to the Board at the next meeting.

Attorney Thurman thanked Board member Nalee for appearing on May 6, 2014 to continue the Planning Board meeting till May 15, 2014.

7. Next Meeting: Scheduled for July 1, 2014.

8. Adjournment: The meeting adjourned at 10:00 pm.