

PLANNING STAFF REPORT

Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – December 2, 2014
Board of County Commissioners – January 20, 2014

Applicant: Four Points Recycling

Application Number: ZTA 11288

Text Amendment Proposal: Four Points Recycling, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. The request is to amend Section 5.2.3 to add Other Nonhazardous Waste Treatment and Disposal as a permitted use in the GB, General Business zoning district.

Background: The following text amendment is the result of the absence of compost facilities as a by-right use in the GB, General Business zoning district which shall be classified as NAICS, North American Industry Classification System Number 562219 for Other Nonhazardous Waste Treatment and Disposal in the Pender County Unified Development Ordinance.

Administrator Recommendation: The Administrator respectfully recommends denial of the proposed amendment to the Unified Development Ordinance as described in the following report with the intention of further examination of an appropriate zoning district or potential standards for this use.

Background

The requested text amendment is to amend Section 5.2.3 of the Pender County Unified Development Ordinance to amend “Other Nonhazardous Waste Treatment and Disposal” which is classified as NAICS, North American Industry Classification System Number 562219 as a by-right use in the GB, General Business zoning district.

According to the NAICS classification, this U.S. industry comprises establishments primarily engaged in (1) operating nonhazardous waste treatment and disposal facilities (except landfills, combustors, incinerators and sewer systems or sewage treatment facilities) or (2) the combined activity of collecting and/or hauling of nonhazardous waste materials within a local area and operating waste treatment or disposal facilities (except landfills, combustors, incinerators and sewer systems, or sewage treatment facilities). Compost dumps are included in this industry.

According to the applicants narrative; “this would allow for the processing of “silverculture waste” which may be defined as waste materials produced from the care and cultivation of forest trees, vegetative debris, yard trash, yard waste and the crushing of concrete materials that could be sold as ABC rock” to be included in the Unified Development Ordinance.

Current Practice for Yard Debris

According to Pender County’s website under Pender Solid Waste; State law prohibits the disposal of yard waste and vegetative debris in sanitary landfills. Alternative Disposal Options: backyard composting, controlled burning, contract with a private hauler, or Wilmington Materials on Highway 421 will accept yard wastes for a fee. Wilmington Materials will also accept tree stumps for a fee. The convenience centers in Pender County do not accept yard debris.

During storm events Pender County does designate storm debris locations and there may be a need for these facilities year round in the County. In total 7,793.77 tons of Construction and Demolition debris were landfilled on behalf of Pender County citizens as a result of Hurricane Floyd. An additional 60,696 cubic yards of vegetative debris were collected by the Department of Transportation and burned via air curtain by Pender County contractors. Hurricane Isabel generated approximately 200 cubic yards of vegetative debris. Total costs to clean-up were approximately \$16,000 to the County. Hurricanes Bonnie and Charley (August 2004) generated vegetative debris. Amounts dropped off at two County locations totaled 1,137 cubic yards. Clean-up costs were approximately \$20,000. All figures above are from Pender County’s solid waste division as public information on the Pender County website.

Requested Amendment

Section 5.2.3 Table of Permitted Uses

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Sector 56: ADMINISTRATIVE AND SUPPORT AND WASTE MANAGEMENT AND REMEDIATION SERVICES											
Administrative and Support Services	561	S				P	P	P	P	P	
Solid Waste Collection Public	562111	P	P	P	P	P	P	P	P	P	
Solid Waste Collection Private	562111									S	
Solid Waste Landfill	562212									S	
Solid Waste Combustors and Incinerators	562213									S	
Other Nonhazardous Waste Treatment and Disposal	562219						P			S	
Remediation Services	562910									S	
Materials Recovery Facilities	562920									S	
All Other Waste Management Facilities	56299									S	

Unified Development Ordinance Compliance

The applicant’s request to amend an identified use type termed as “Nonhazardous Waste Treatment and Disposal” which is classified as NAICS, North American Industry Classification System Number 562219 to amend the GB, General Business zoning district as a by-right use.

According to Section 4.9.1 of the Pender County Unified Development Ordinance, GB, General Business zoning district; is primarily intended to accommodate uses which require close access to major highways. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal service uses. The General Business zoning district serves as a commercial zoning district in Pender County.

According to the Table of Permitted Uses in Section 5.2.3, Administrative and Support and Waste Management and Remediation Services are uses which would require a Special Use Permit approval by the Pender County Board of Commissioners in the GI, General Industrial zoning district.

All buffer requirements for specific projects and parcels are based on use type and the zoning for the parcel. With a GB, General Business zoning district and the use of a Solid Waste Compost facility this may require additional buffering similar to an industrial zoning district rather than a commercial zoning district as proposed. According to Section 8.2.1 of the Pender County Unified Development Ordinance; A buffer is a specified land area, located parallel to and within the outer perimeter of a lot or parcel and extending to the lot or parcel boundary line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as berms, fence or wall, or combination hereof, where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not the same as the term "yard" or the term "stormwater management area." Buffers specifically protect adjacent properties from potential by-products of a specific use.

There is conflicting text in the Unified Development Ordinance to include "Other Nonhazardous Waste Treatment and Disposal" which is classified as NAICS, North American Industry Classification System Number 562219 in the GB, General Business zoning district as a by-right use. This use may be better suited by Special Use Permit or a by-right use in the GI, General Industrial zoning district as similar uses are outlined in Section 5.2.3 of the Pender County Unified Development Ordinance.

Comprehensive Land Use Plan Compliance

There are conflicting policies within the 2010 Comprehensive Land Use Plan for the proposed text amendment. The proposed zoning text amendment is in compliance with the following goals and policies in the 2010 Pender County Comprehensive Land Use Plan:

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.

Solid Waste Management Goal 2F.1 Ensure adequate capacity and proper management of solid waste, including reducing, reusing and recycling materials.

The proposed zoning text amendment may be conflicting with the following goals and policies:

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

Policy 3A.1.3 Support the inclusion in the UDO of conditional zoning which provides more flexibility for the land owner/developer and the County to mutually agree upon specific development conditions and requirements. (Conditional zoning is a method that incorporates site specific standards directly into the zoning district regulations and then applies that zoning district only to the property that is the subject of the rezoning petition.)

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.

Policy 2F.1.4 When siting collection centers, consider surrounding land uses, traffic and aesthetics.

Evaluation

As prescribed in the Pender County Unified Development Ordinance Section 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 amendments, the central issue before the Planning Board 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.

Staff Recommendation

The proposed text amendment is not consistent with the Pender County Unified Development Ordinance and the 2010 Pender County Comprehensive Land Use Plan. Therefore, Planning Staff is respectfully recommending denial of the zoning text amendment as presented and as described in the previous report with the intention of further examination of an appropriate zoning district or potential standards for this use.

Planning Board

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous** _____

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