

PLANNING STAFF REPORT

Zoning Text Amendment

SUMMARY:

Hearing Date: April 8, 2015– Planning Board
April 20, 2015– Board of Commissioners
Applicant: Pender County
Case Number: ZTA 11326

Text Amendment Proposal: Pender County, applicant, is requesting the approval of a zoning text amendment to the Pender County Unified Development Ordinance (UDO). The request is to revise the review procedures for by-right development approval by amending Sections 2.3, 2.5, 2.9, 2.11, 3.4, 3.5, 3.7, and 3.10 and to clarify requirements for the Planned Development zoning district by amending Sections 4.8, 4.14, and 6.1.

Background: The zoning text amendment proposal is the result of various administrative discussions and situational circumstances that have been brought to the attention of Planning Staff since the effective date of the Pender County Unified Development Ordinance. Staff has been working closely with the Planning Board, presenting preliminary information and receiving input at work sessions and their February 3rd and March 3rd, 2015 meetings. Additionally, Staff presented preliminary information to the Board of Commissioners and received input at their March 16th, 2015 meeting. Discussion concentrated on the need to revise review procedures for by-right development and clarify requirements for the Planned Development zoning district in order to better provide citizens and developers with information and seamless processes for development approval.

Administrator Recommendation: The Administrator respectfully recommends approval of the zoning text amendment to the Unified Development Ordinance as described in the following report.

Requested Amendment: Revision of the Process for By-Right Development Review (Exhibit 1)

Intent

The first portion of the zoning text amendment seeks to improve customer service and efficiency by revising the process for by-right development proposal review. By-right development is a project that meets all Ordinance criteria, allowing for no subjective criteria that necessitates approval from the Planning Board public hearing. If the project meets all outlined Ordinance standards, then it shall be approved.

Current Process

Currently, by-right development proposals require a Master Development Plan submittal, for which the Planning Board holds a public hearing and reviews the request. The Planning Board has the authority to approve the Master Development Plan. Following approval of the Master Development Plan, the applicant may submit a Preliminary Plat, for which again, the Planning Board holds a public hearing and reviews the request, granting approval if all Ordinance standards have been met for the submittal.

The **CURRENT** approval process for by-right development is as follows:

1. Applicant attends a pre-submittal meeting with Staff and submits a complete application and Master Development Plan;
2. Planning Staff reviews the submittal;
3. Technical Review Committee (TRC) reviews the development proposal;
4. Planning Board reviews the Master Development Plan in public hearing and has the authority to approve if all Ordinance standards have been met;
5. Following Master Development Plan approval, applicant may submit a by-right development proposal (Major Site Development Plan 3.7 or Major Subdivision Preliminary Plat 3.10);
6. Planning Staff reviews the submittal;
7. Technical Review Committee (TRC) reviews the development proposal;
8. Planning Board reviews the Major Subdivision Preliminary Plat in public hearing and has the authority to approve if all Ordinance standards have been met;
9. Planning Staff has authority to approve Major Site Development Plan or Major Subdivision Final Plat if all Ordinance standards have been met.

Proposed Process

The proposed text amendment removes the requirement of Planning Board public hearing and approval for the Master Development Plan and Major Subdivision Preliminary Plat for by-right development. This text amendment is applicable to the following development proposals: Major Site Development Plans (Section 3.7) and Major Subdivisions (Section 3.10) located in by-right zoning districts: RA, Rural Agricultural, RP, Residential Performance, GB, General Business, OI, Office Institutional, GI, General Industrial, and IT, Industrial Transitional zoning districts. (*Note: A Master Development Plan is not required in the RA, Rural Agricultural zoning district. Additionally, the review of a Master Development Plan with public hearing and Planning Board approval is still required for PD, Planned Development, RM, Residential Mixed, and MH, Manufactured Housing Community zoning districts, which require design standards such as lot sizes, setbacks, and separations to be established at the Master Development Plan hearing.*) The text amendment modifies Sections 2.3, 2.5, 2.9, 2.11, 3.4, 3.5, 3.7, and 3.10 of the Pender County Unified Development Ordinance, in accordance with North Carolina General Statutes.

The **PROPOSED** approval process for by-right development is as follows:

1. Applicant attends a pre-submittal meeting with Staff and submits a complete application and Master Development Plan;
2. Planning Staff reviews the submittal;
3. Technical Review Committee (TRC) reviews the development proposal;
4. Planning Staff has the authority to approve the Master Development Plan if all Ordinance standards have been met;
5. Following Master Development Plan approval, applicant may submit a by-right development proposal (Major Site Development Plan 3.7 or Major Subdivision Preliminary Plat 3.10);
6. Planning Staff reviews the submittal;
7. Technical Review Committee (TRC) reviews the development proposal;
8. Planning Staff has authority to approve the development proposal if all Ordinance standards and all local, state, and federal requirements have been met;

9. Planning Staff has authority to approve Major Site Development Plan or Major Subdivision Final Plat if all Ordinance standards have been met.

Public Notifications

If the Planning Board public hearing requirement is removed, it is still important that the public be notified of development proposals. In order to provide consistent reporting and adequate information to the public and to the Planning Board, the following methods are proposed:

- Planning Staff will provide a report of recently submitted by-right development proposals as a discussion item at Planning Board meetings;
- Planning Staff will input all by-right development proposals to a Pending and Approved Projects section on the Pender County website (Exhibit 2);
- Planning Staff will mail notification of by-right development proposals to adjacent property owners, including how to access the Pending and Approved Projects section of the Pender County website and which Planning Staff member to contact for more information (Exhibit 3);
- Planning Staff will post a sign on the subject property to inform citizens of development proposal. The sign will include Planning Department contact information (Exhibit 4).

The proposal to remove the requirement of Planning Board public hearing and approval for by-right development will benefit the applicant, Planning Board, Planning Staff, and the community in multiple ways. The process will be more efficient, thereby saving time for all parties involved. Additionally, the applicant will have the ability to focus on input from the Technical Review Committee to address specific concerns from technical experts. Finally, the community will benefit from having readily-available access to information for all proposed by-right development within the County.

Requested Amendment: Clarification of Requirements for the PD Zoning District (Exhibit 5)

Intent

The second portion of the zoning text amendment seeks to clarify requirements for the PD, Planned Development zoning district. The PD zoning district, as defined by Section 4.8.1, is intended to provide an alternative to conventional development and standards of other zoning districts. The PD zoning districts allow projects of innovative design and layout that would not otherwise be permitted under the Ordinance because of the strict application of zoning district or general development standards. The PD District encourages progressive land planning and design concepts.

The current Ordinance language for PD zoning district standards targets larger developments that are able to accommodate a mix of uses within one overall project with innovative design and layout of the project site. The intent of the innovative design “tradeoff” in the Ordinance allows for flexible regulations to suit a specific project and incorporate other progressive land planning and design concepts, all of which would be captured in the Master Development Plan for the property. The PD zoning district requires an approved Master Development Plan.

In 2003 a comprehensive rezoning of County properties designated many parcels as PD zoning district, without identifying whether a Master Development Plan existed for the specific property. If an approved Master Development Plan does not exist for a PD-zoned tract, issues arise when development approval is sought on these properties. Planning Staff, as well as the Planning Board,

need objective guidance for development or change of use on these PD-zoned properties that do not have an approved Master Development Plan.

Proposed Amendments

The proposed amendment will address the five types of PD properties that currently exist:

1. PD tracts that were recorded under previously adopted development regulations and are part of a platted subdivision or master planned development but lack specific standards;
2. PD tracts that were recorded under previously adopted development regulations and are part of a platted subdivision or an approved Master Development Plan as of April 20, 2015;
3. Vacant PD tracts that are less than one hundred (100) acres in area and are not part of an approved Master Development Plan as of April 20, 2015;
4. Vacant PD tracts that are one hundred (100) acres in area or larger and are not part of an approved Master Development Plan as of April 20, 2015;
5. PD tracts that are requesting a change of use from one NAICS sector classification to another, expansion of existing use(s), or revision of existing standards.

Currently, proposed development for existing PD properties that are not part of an approved Master Development Plan must submit a Master Development Plan in accordance with the Ordinance standards of Section 6.1. The project is reviewed by the Planning Board for approval. This subjective review causes difficulty for Planning Staff to provide guidance to the applicant and does not provide the developer with enough objectivity or level of certainty of approval by the Planning Board. Text is proposed to clarify standards of the PD zoning district to assist the applicant with their site plan design, to assist Planning Staff with guidance to the applicant, and to assist the Planning Board with review of the proposal.

The proposed zoning text amendment modifies Sections 4.8, 4.14, and 6.1 of the Ordinance and focuses on eliminating any ambiguity within the PD zoning district standards.

2010 Comprehensive Land Use Plan Compliance:

There are no conflicting policies within any adopted land use documents for the proposed zoning text amendment within any adopted planning documents. The proposed text amendment is in compliance with the following goals and policies in the 2010 Pender County Comprehensive Land Use Plan:

Growth Management Goal 1A.1 Manage the physical growth and development of Pender County by promoting more intensive land uses in key locations identified for such growth while preserving and protecting the unique physical character and social assets of the predominant rural lifestyle and coastal environment that makes the County a unique place to live.

Policy 1A.1.1 Encourage development in and around municipal corporate limits and other developed areas within the County to yield a more compact pattern of development that will reduce suburban/rural sprawl.

Policy 1A.1.2 Encourage development in areas where the necessary infrastructure – roads, water, sewer, and schools - are available, planned or can be most cost effectively provided and extended to serve existing and future development.

Policy 1A.1.3 The County shall actively direct growth towards suitable land areas and away from fragile natural resources areas, conservation areas, and hazardous areas.

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 1A.1.5 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.

Preferred Development Patterns Goal 3A.1 Develop a preferred growth pattern that includes traditional suburban communities but also allows for higher density residential development and for innovative mixed-use developments to encourage more compact, sustainable growth patterns.

Policy 3A.1.1 Use the creation of the Unified Development Ordinance (UDO) as an opportunity to allow more development flexibility while setting higher standards for sustainable development.

Policy 3A.1.2 To the extent possible, incorporate more flexible zoning categories that establish performance standards and do not exclude uses as much as encourage compatible co-location of uses to encourage sustainable land use patterns. Neo-traditional or traditional neighborhood planning standards should provide for a compatible mix of uses to encourage more livable communities.

Policy 4A.1.3 Establish flexible development regulations which encourage a variety of mixed use infill and re-development along the US Highway 17 corridor.

The Coastal Pender Small Area Plan (Exhibit 6) shows a high concentration of Mixed Use land use classification along the US HWY 17 corridor. According to Section 3 of the 2010 Pender County Comprehensive Land Use Plan, the mixed use land use classification designates locations where a mixture of higher density/intensity uses is to be encouraged. Mixed Use areas should be characterized by physically and aesthetically unified developments containing a mixture of commercial, office, institutional, and high- and medium-density residential uses, arranged in a walkable, compact, pedestrian and transit friendly manner (Exhibit 7).

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 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.

Staff Recommendation:

The proposed zoning text amendment is consistent with the Pender County Unified Development Ordinance, the 2010 Pender County Comprehensive Land Use Plan, and other adopted planning documents. Staff respectfully recommends approval of the zoning text amendment as presented.

Planning Board

Motion: _____ **Seconded:** _____

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

Williams: ___ McClammy: ___ Fullerton: ___ Baker: ___ Edens: ___ Marshburn: ___ Nalee: ___