

Pender County Planning and Community Development

Planning Division

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MEMORANDUM

To: Pender County Planning Board

From: Planning Staff

Date: September 1, 2015

RE: Discussion Item— Landscaping and Buffer Requirements

Planning Board,

As discussed at the July 8th and August 4th, 2015 Planning Board meetings, Staff is requesting your input on potential UDO text amendment language in effort to provide alternatives to current landscaping and buffer requirements. Staff's intention was to present a text amendment proposal to you with public hearing regarding buffer language; however, questions arose on which Staff would like to have the Board's input before presenting the amendment.

As previously discussed, this potential text amendment is offered in effort to provide greater flexibility for landowners and/or developers whose proposed use on a site is relatively small compared to the overall size of the site and is a result of a discussion with a property owner who contacted the Planning office with a concern that a relatively small, new use on his site would trigger the requirement to install a landscaped buffer around the entire perimeter of the relatively large site, potentially becoming cost prohibitive.

QUESTIONS FOR PLANNING BOARD

Staff requests your input on the following questions regarding proposed language for UDO Section 8.1.2.C:

- Should buffer requirements be applied when an existing use is expanded on site, and if so, should there be a minimum size threshold that triggers this requirement (such as increase of 2,500 square feet or more or fifty percent increase or more in area)?
- What qualifies as a new use?
 - Does 8.1.2.C conflict in any way with 8.1.2.D?
- If a single building that does not currently meet buffer requirements changes use, should the incoming use trigger buffer requirements?
 - Or does the incoming use trigger buffer requirements only per Section 8.1.2.D?

- If a new use is introduced on site after a former non-conforming use loses nonconforming status (after 180 days per Section 10.3.4), does this qualify as a new use?
- If a single use among many uses within a shopping center changes (and assuming the shopping center does not currently have buffers), how should the buffer requirements be applied?
 - If a new use is introduced within a shopping center (and assuming the shopping center does not currently have buffers), how should the buffer requirements be applied?
 - Should the applicant, who may only occupy a small portion of the shopping center, be required to buffer the entire site around the shopping center?

Staff will present these questions to the Board for discussion and direction. Thank you for your input.

8.1.2 Applicability

The landscaping and buffering requirements found in this Article shall apply to all development within Pender County with the exception of bona fide farming activities, properties listed on the National Register of Historic Places (NRHP) and residential development of one housing type in the Residential Performance Districts. Developments attempting to qualify for the National Register of Historic Places exemption must provide a copy of the National Parks Service listing, along with a narrative briefly requesting the aforementioned relief and how the landscaping standards would conflict with the historic significance of the property. Landscaping and buffer requirements shall apply in all business, planned development, industrial, and non-residential uses in other zoning districts when:

- A. A new principle structure is built; or
- B. An existing principal structure is expanded sufficiently to increase its interior square footage by fifty percent (50%) or more, in any one or more expansions; or
- C. A new use is introduced or an existing use is expanded on site; or
- D. A change in use from residential related to office, service, commercial or industrial, or from office, service or commercial to industrial; or
- E. In any residential development with two or more types of housing development.

8.2.2 Location

Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way. Buffers may be located and constructed within any required setback.

- A. Exception: When landscaping and buffer requirements shall apply per Section 8.1.2 and when a site is five (5) acres or larger, the required buffer may be located within the outer perimeter of the limit of disturbance of the project area on the lot or parcel. If the limit of disturbance is expanded, the buffer shall be adjusted accordingly.

10.3.4 Loss of Nonconforming Use Status

- A. Discontinuance
 - 1) When a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, or greater than one hundred eighty (180) days with good cause shown, the property involved may thereafter be used only for conforming purposes.
 - 2) The resumption of a nonconforming use shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.

- 3) For purposes of determining whether a right to continue a nonconforming use is lost, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole

B. Damage or Destruction

- 1) A nonconforming use located within a structure which has been damaged by fire or other natural causes may retain nonconforming status if the use is reestablished within one year.