

**PLANNING STAFF REPORT
ZONING TEXT AMENDMENT**

SUMMARY:

Hearing Date: July 6, 2016 Planning Board
August 15, 2016 Board of Commissioners
Applicant: Stroud Engineering
Case Number: ZTA 271-2016

Text Amendment Proposal: Stroud Engineering, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance (UDO). Specifically, the request is to amend Section 5.2.3 Table of Permitted Uses, in order to allow borrow pit sand mining (considered to be harvesting of mineral resources for wholesale distribution under NAICS Use #212321), to be considered an allowable use in the PD, Planned Development zoning district, when in conjunction with and approved Master Development Plan.

RECOMMENDATION

The Administrator respectfully recommends approval of the Zoning Text Amendment to the Unified Development Ordinance as described in this report, as it is consistent with other areas of the Pender County Unified Development Ordinance and with the 2010 Pender County Comprehensive Land Use Plan. There are no known conflicts with any other approved plans.

AMENDMENT DESCRIPTION

The amendment is displayed in Attachment one. It specifically lists "Borrow Pit Sand Mining" as "PM" under Sector 21 of the Table of Permitted Uses. No additional changes have been requested. This means it would only be allowed when approved on a Master Development Plan.

A borrow pit is an area where material such as soil, gravel or sand, has been dug for use at another location. The applicant believes in some cases borrow pit sand mining would be beneficial in financially assisting future development. The materials could be mined on the development site being prepped for construction and then sold to be used elsewhere. When approved as part of the development process, this use would result in an area prepped for development.

2012 NAICS, Sector 21, Mining, Quarrying, and Oil and Gas Extraction contains these uses. It states that this industry group comprises establishments primarily engaged in developing mine sites, or in mining or quarrying nonmetallic minerals (except fuels). Also included are certain well and brine operations, and preparation plants primarily engaged in beneficiating (e.g., crushing, grinding, washing, and concentrating) nonmetallic minerals. Please see Attachment two.

Regulations for borrow pit sand mining are overseen by NCDEQ Division of Land, Minerals and Land Resources. Any final zoning approvals are contingent upon review and approval from NCDEQ. Specifically the permit is required for the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores or other solid matter. Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils and other solid matter from their original location and the preparation, washing, cleaning or other treatment of minerals, ores or other solid matter that makes them suitable for commercial, industrial or construction use.

Regulations for approval of a Master Development Plan are contained in the Pender County Unified Development Ordinance, Article 3, Section 3.5. The purpose of this type of development is to ensure that development occurs in a manner that suits the characteristics of the land, is harmonious with adjoining property, is in substantial compliance with the goals and policies of the Land Use Plan and is in the best interest of the general public. Due to this process, each request to perform such mining could be carefully evaluated on a case by case basis.

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 Planning Board and 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.

2010 Comprehensive Land Use Plan Compliance

There are no conflicting policies within any adopted land use documents for the proposed Zoning Text Amendment. This Zoning Text Amendment request is consistent with one (1) goal and one (1) policy of the 2010 Comprehensive Land Use Plan and conflicts with none.

The following goals and policies within the plan may be relevant to the proposed Zoning Text Amendment:

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.1.5 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.

There are no conflicting policies in the 2010 Comprehensive Land Use Plan. There are no known conflicts with environmental policies.

RECOMMENDATION

The proposed text amendment is consistent with one (1) goal and one (1) policy within the 2010 Pender County Comprehensive Land Use Plan. The proposed amendment potentially creates an economic benefit. There are no known additional negative environmental consequences. Therefore, the Administrator respectfully

recommends approval of this zoning text amendment to the Unified Development Ordinance as described in this report.

BOARD ACTION FOR ZONING TEXT AMENDMENT

Motion: **Seconded:**

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

Williams: ___ Fullerton: ___ Baker: ___ Carter: _____ Edens: ___ McClammy: ___ Nalee: ___