

**PLANNING STAFF REPORT
ZONING TEXT AMENDMENT**

SUMMARY:

Hearing Date: October 4, 2016 Planning Board
October 17, 2016 Board of Commissioners

Applicant: Pender County

Case Number: ZTA 243-2016

Text Amendment Proposal: Pender County, applicant, is requesting the approval of Zoning Text Amendments to the Pender County Unified Development Ordinance: Article 2 Decision Making and Administrative Bodies, Article 3 Review Procedures, Article 4 Zoning Districts, Article 5 Permitted Uses, Article 6 Development Requirements and Content, Article 7 Design Standards, Article 11 Road Naming and Addressing and Appendix A Definitions. Specifically the request is to amend: the Summary of Review Authority (Section 2.11), Review Procedures for Minor Site Plans (Section 3.6), Notification Policies (Sections 3.3.3, 3.3.4, 3.4.3, 3.7.3, 3.9.3, 3.10.3, 3.12.2, 3.14.5, and 4.13.4), Review Procedures for General Use Rezoning (Section 3.3.5), Policies on Unlisted Uses (Section 5.2.1A), Easement Policies (Article 6), Preliminary Plat Requirements (Section 6.4), Final Plat Requirements (Section 6.5), Easement Standards (Section 7.5.4), Road Naming (Section 11.1.2), Addressing (Section 11.6) and various definitions (Appendix A).

RECOMMENDATION

The Administrator respectfully recommends approval of the Zoning Text Amendments to the Unified Development Ordinance as described in this report, as they have been vetted by the Text Amendment Subcommittee of the Planning Board and they are consistent with other areas of the Pender County Unified Development Ordinance and with the 2010 Pender County Comprehensive Land Use Plan. The proposed amendment will provide better customer service with more clear and organized standards. It will update the Unified Development Ordinance to reflect updated legislation regarding land use categories. It will increase efficiency by eliminating unnecessary processes, will provide increased notifications to impacted citizens, and will simplify processes for certain new businesses. There are no known conflicts with any other approved plans. The amendments are supported by three (3) goal and three (3) policies in the 2010 Pender County Comprehensive Land Use Plan.

AMENDMENT DESCRIPTION

The proposed amendment to the Unified Development Ordinance can be simplified by reviewing it as if they are eight separate policy amendments to the document. The amendments will be described in that manner for simplicity. The exact amendments are included as Attachments 1-8.

Items One & Two

In an effort to increase clarity and further define the Ordinance standards for the subdivision of land, Staff is working on re-organizing Sections 6.4 Preliminary Plat Requirements and 6.5 Final Plat Requirements for Minor and Major Subdivisions. There are minimal substantive changes to the requirements, and mainly administrative and modernization changes.

The modernization and substantive change includes additional language regarding the Engineered Option Permit offered through the Environmental Health Department which is an option rather than an Improvement

Permit for a particular lot to be recorded on the Final Plat. Additionally, the requirements for private sewer operations have been further clarified as private sewer is now available on the East side of the County. And the final change is for the signatory block on the Final Plat to include; Pender County Utilities, Pender County Environmental Health and the Addressing Coordinator rather than solely the Addressing Coordinator and Planning Staff. This addition allows for greater clarity in approvals granted from other County Departments.

Also, included within items One and Two is an option to amend the number of lots recorded on a Final Plat. Staff continues to hear requests to be able to record less than the requirement, which is the following:

- 1) *Minimum Number of Lots Required on a Final Plat – the minimum lots included on the final plat shall be as follows:*
 - a) *Up to 10 lots – 100%*
 - b) *11 – 34 lots – 50% upon initial recordation, remainder thereafter*
 - c) *35 – 100 lots – minimum of 25 lots/units upon initial recordation, minimum increments of 10 lots thereafter*
 - d) *100 or more lots – minimum of 50 lots/units upon initial recordation, minimum increments of 10 lots thereafter.*

Specifically, Staff is seeing that the standards for development of projects over 100 lots are having difficulty recording the initial 50 lots as development patterns are showing the desire to record smaller phases within the overall project, perhaps encompassing a single road within a project. Final plat infrastructure requirements may be driving this as additional liability must be taken on by the developer to record more lots than are being requested to be taken down by a builder. As written Ordinance text reflects the need to record lots within a subdivision in increments of no less than 10 lots to relieve Administrative burdens and to ensure development phasing.

The recommendation is to include minimum lots for recordation to be in increments of fifteen (15) as this is typically the amount of lots requested to be recorded at a time. Recommended language is below;

- 1) *Minimum Number of Lots Required on a Final Plat – the minimum lots included on the final plat shall be as follows:*
 - a) *Up to 10 lots – 100%*
 - b) *10 or more lots- minimum increments of 15 lots thereafter.*

Item Three

In order to further simplify the application process for new business in an existing structure, a new category of permit is recommended to be added which is a *Change of Use Permit*. This will create a more efficient method of issuing zoning permits for certain non-residential uses seeking to locate in an existing structure. This would be applicable when the change of use is less than 1,200 sq. ft., or within the same NAICS sector as the previous use within 180 days, or a renovation is proposed with less than 10% of the square footage of the structure.

The basis for this proposal is that frequently, when a new business wants to open and use an existing structure there are limited requirements which may be needed for zoning approval. In some cases, the layers of requirements new business owners face are discouraging, time consuming and frustrating, particularly when the business locating in the existing structure is similar to the previous use. Staff has consulted with internal (Addressing/Environmental/Building/Fire Marshal) and external agencies (NCDOT) that regularly review these types of applications and have found agreeance in the new process. Also, staff reviewed this process with

other regional partners and has found this to be consistent in and around our area; therefore, staff is recommending approval of this new process.

The proposal included in the Attachment (Item 3) is a creation of a new type of approval and new review criteria for the Change of Use Permit. Related to a Change of Use Permit, an amendment is proposed to add a definition of *Principle Structure* to the Unified Development Ordinance Definitions Section. This addition will assist in the administration of commercial and residential zoning permits.

Item Four

Currently, the access easement standards are scattered throughout the Ordinance in various subdivision regulations (Limited Subdivision, Major Subdivision and Minor Subdivision). Staff is advising the removal of these references in various Sections and re-organizing all access easement standards in one place of the Ordinance. This amendment will allow for greater clarity in Administration of subdivision regulations and increase efficiency with the community of surveyors to have clear and succinct requirements.

Item Five

In working with the ZTA committee and hearing the Planning Board's concerns regarding notification policies to adjacent property owners at public hearings; it has been suggested that the requirements for notification should be expanded further than the direct, adjacent property owners as outlined in NC GS § 153A-343.(a) Method of procedure. After examining illustrations of various buffers, the subcommittee is recommending expanding the notification procedures to properties within 500-feet. The Statute requires notification for zoning map amendments, however Pender County follows the same process for Master Development Plan, Major Subdivisions, Variances and Special Use Permits and the Technical Review Committee.

Item Six

Section 3.3 outlines the procedure for General Use Rezoning. Section 3.3.5, Action by the Administrator, lists in Section B that the request is reviewed by the Technical Review Committee. While this step is logical for Conditional Use Rezonings, General Use Rezonings typically do not contain a level of detail to warrant review by the Technical Review Committee. Each subject property which is rezoned is required to have final zoning approval on the specific request when the applicant comes in with a development Plan. At the time of General Use Rezoning there is no specific development plan for the TRC to review.

Item Seven

Following the combination of the Road Naming and Addressing Ordinances into the Unified Development, Staff has identified criteria which may necessitate amendment. Specifically, references to General Statutes are proposed as additions at this time which may have been inadvertently left off. These additions are to Section 11.1.2 Naming (A-121 153A-239.1) and Section 11.6 Addressing (Overview GS 62).

Item Eight

Zoning Ordinances must be clear in the land use regulations including what uses are permitted within which zoning district. The UDO outlines all uses in Section 5. With recent court of appeal cases, and in consultation with the Attorney, it is recommended that the language of Section 5.2.1.A be updated to reflect that unlisted uses shall be treated similarly to another use most similar, and that the uses not listed must be included in the Ordinance as part of another use. Specific criteria regarding the determination of a similar use is proposed in the amendment. These include; environmental effects, traffic impacts, noise, odor or other applicable criteria as determined by the Administrator.

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.

There are three (3) goals and three (3) 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.

Growth Management Goal 1B.1 Continue existing and develop new partnerships among Pender County local governments and with surrounding communities to better address growth management in a coordinated manner.

Emergency Services Goal 2E.1 Ensure adequate response times and capabilities of Sheriff, Police, Fire and Emergency Medical Services.

Policy 3A.1.1 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.1.2 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.

There are no conflicting policies in the 2010 Comprehensive Land Use Plan.

RECOMMENDATION

The proposed text amendment is consistent with three (3) goals and three (3) policies within the 2010 Pender County Comprehensive Land Use Plan. The proposed amendment will provide better customer service by providing more clear and organized standards. It will update the Unified Development Ordinance to reflect updated legislation regarding land use categories. It will increase efficiency by eliminating unnecessary processes and will provide increased notifications to impacted citizens. It will simplify processes for certain new businesses. For these reasons, staff 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: _____