

**PLANNING STAFF REPORT
ZONING TEXT AMENDMENT**

SUMMARY:

Hearing Date: January 4, 2017 Planning Board
February 21, 2017 Board of Commissioners

Applicant: Travis Holder

Case Number: ZTA 426-2016

Text Amendment Proposal: Travis Holder, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to add a new Section (5.3.7) for standards regarding Construction (NAICS Sector 23) and amend Section 5.2.3, Table of Permitted Uses, in order to allow for the following uses; Construction of Buildings (NAICS 236), Heavy and Civil Engineering Construction (NAICS 237) and Specialty Trade Contractors (NAICS 238) to be permitted with use standards in the GB, General Business zoning district.

ADMINISTRATOR RECOMMENDATION

The proposed text amendment is consistent with one (1) goal and one (1) policy within the 2010 Pender County Comprehensive Land Use Plan, but is not consistent with other areas of the Unified Development Ordinance. The applicant's proposal conflicts with the definition of the GB, General Business zoning district. 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 outdoor storage of equipment and materials generally found within NAICS Sector 23 is not consistent with the General Business zoning district. The use is more suited for the IT, Industrial Transitional zoning district. The intent of the IT, Industrial Transitional zoning district is to provide for heavy commercial activities, involving larger scale marketing or wholesaling, where production and assembly occur onsite and retail sales of those products can be sold on premise where produced. In some cases, such areas may be transitional, located between business and industrial areas. In these areas, there will be a mixture of automobile and truck traffic. Flex space and technical uses are allowed, which may require large area of land and outdoor storage and display. Therefore, the Administrator respectfully recommends denial of the applicant's proposal.

AMENDMENT DESCRIPTION

As the applicant mentioned in their submitted narrative, there are a limited amount of parcels zoned GI, General Industrial zoning district and IT, Industrial Transitional zoning district in the general Hampstead area. Currently, NAICS uses 236, 237, and 238 are permitted by-right in Pender County in the GI, General Industrial zoning district and the IT, Industrial Transitional zoning district. This request would allow this use to be permitted by right in the GB, General Business zoning district with applicable standards, which will require a renumbering of Section 5.3.7 and subsequent sections thereafter. Proposed standards are a six-thousand (6,000) square foot maximum of outdoor storage area for applicants of Sector 23 in the GB, General Business zoning district. It also includes all storage of materials and equipment to be screened from the view of the public right-of-way (Attachment 1).

The 'Construction of Buildings' (NAICS 236) subsector comprises establishments primarily responsible for the construction of buildings. The work performed may include new work, additions, alterations, or maintenance and repairs. The on-site assembly of pre-cut, panelized, and prefabricated buildings and

construction of temporary buildings are included in this subsector. The ‘Heavy and Civil Engineering Construction’ (NAICS 237) subsector comprises establishments whose primary activity is the construction of entire engineering projects, and specialty trade contractors, whose primary activity is the production of a specific component for such projects. The ‘Specialty Trade Contractors’ (NAICS 238) subsector comprises establishments whose primary activity is performing specific activities (e.g., pouring concrete, site preparation, plumbing, painting, and electrical work) involved in building construction or other activities that are similar for all types of construction, but that are not responsible for the entire project. The NAICS descriptions are attached as Attachment Two.

The proposed text amendment as submitted adds a D (for Permitted Use with standards) in the Construction of Buildings (NAICS 236), Heavy and Civil Engineering Construction (NAICS 237), and Specialty Trade Contractors (NAICS 238) categories that exist in the permitted use chart.

REQUESTED AMENDMENT

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Sector 23: CONSTRUCTION											
Construction of Buildings	236						D		P	P	
Heavy and Civil Engineering Construction	237						D				
Specialty Trade Contractors	238						D		P	P	

5.3.7 Construction (Sector 23)

A. Construction of Buildings; Heavy and Civil Engineering Construction; Specialty Trade Contractors

- 1) A maximum floor area of six-thousand (6,000) square feet.
- 2) Any outdoor storage of materials or equipment must be screen from view of any public right-of-way.

UNIFIED DEVELOPMENT ORDINANCE COMPLIANCE

The applicant’s requesting to amend three use types termed as “Construction of Buildings (NAICS 236), Heavy and Civil Engineering Construction (NAICS 237), and Specialty Trade Contractors (NAICS 238)” to allow each use to be permitted by-right with standards in the GB, General Business zoning district.

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. As proposed, the current amendment is not consistent with the description of the GB, General Business zoning district. The use is more suited for the IT, Industrial Transitional zoning district. The intent of the IT, Industrial Transitional zoning district is to provide for heavy commercial activities, involving larger scale marketing or wholesaling, where production and assembly occur onsite and retail sales of those products can be sold on premise where produced. In some cases, such areas may be transitional, located between business

and industrial areas. In these areas, there will be a mixture of automobile and truck traffic. Flex space and technical uses are allowed, which may require large area of land and outdoor storage and display.

Due to the retail, office, and personal service nature of the General Business zoning district, the proposal for allowing outdoor storage of contractor equipment and materials conflicts with the purpose of the zoning district. The storage of equipment and materials within a fully enclosed structure would be more consistent with the General Business zoning district description. The applicant proposed the floor area limit to regulate the size and intensity of contractor's businesses without allowing larger, more industrial-sized contractors looking for larger spaces.

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 the Pender County Unified Development Ordinance.

The GB, General Business zoning district is described in the Unified Development Ordinance Section 4.9.1. It states: This 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 proposal allowing the outdoor storage of equipment and materials is not consistent with the nature of the General Business zoning district. The use is more consistent with the definition of the It, Industrial Transitional zoning district. The intent of the IT, Industrial Transitional zoning district is to provide for heavy commercial activities, involving larger scale marketing or wholesaling, where production and assembly occur onsite and retail sales of those products can be sold on premise where produced. In some cases, such areas may be transitional, located between business and industrial areas. Flex space and technical uses are allowed, which may require large area of land and outdoor storage and display. However, this amendment allows for increased opportunities to provide contractor services for the growing building and construction sector.

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) policies 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:

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.

Economic Development Goal 10A.1: Promote economic development which meets the needs of the County for expanding the non-residential tax base and providing well-paying jobs.

There are no known conflicting policies in the 2010 Comprehensive Land Use Plan or any other adopted plans.

ADMINISTRATOR RECOMMENDATION

The proposed text amendment is consistent with one (1) goal and one (1) policy within the 2010 Pender County Comprehensive Land Use Plan, but is not consistent with other areas of the Unified Development Ordinance. The applicant’s proposal conflicts with the definition of the GB, General Business zoning district. 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 impact of outdoor storage of equipment and materials generally found in this sector may degrade the integrity of the General Business zoning district. The use is more consistent for the It, Industrial Transitional zoning district. The intent of the IT, Industrial Transitional zoning district is to provide for heavy commercial activities, involving larger scale marketing or wholesaling, where production and assembly occur onsite and retail sales of those products can be sold on premise where produced. In some cases, such areas may be transitional, located between business and industrial areas. In these areas, there will be a mixture of automobile and truck traffic. Flex space and technical uses are allowed, which may require large area of land and outdoor storage and display. Therefore, the Administrator respectfully recommends denial of the applicant’s proposal.

BOARD ACTION FOR ZONING TEXT AMENDMENT

Motion: _____ **Seconded:** _____

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

Williams: ____ Fullerton: ____ Baker: ____ Edens: ____ McClammy: ____ Nalee: ____ Carter: ____