



REQUEST FOR BOARD ACTION

ITEM NO. 10.

DATE OF MEETING: January 18, 2011

REQUESTED BY: Kyle Breuer, Director, Department of Planning and Community Development

SHORT TITLE: Resolution to Approve a Zoning Text Amendment

BACKGROUND: Staff has identified several areas within the adopted Unified Development Ordinance (UDO) which need to be addressed. The amendments proposed correct minor errors in the Ordinance and also revises the Ordinance to maintain consistency with state statutes.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider the request to amend the Unified Development Ordinance, Articles 5, 6, and Appendix A-Definitions.

Telecommunication Facilities		SD	SD			SD	SD	SD	SD	SD	
Temporary Manufactured Homes		P	P			P					
Temporary Modular/Manufactured Offices						P	P	P	P	P	
Temporary Fruit & Vegetable Stands		P	P								
Temporary Buildings for Construction or Development		D	D	D	D	D	D	D	D	D	
Temporary Events		D					D	D	D	D	
Sectors 48-49: TRANSPORTATION AND WAREHOUSING											
Support Activities for Road Transportation	4884	S					P		P	P	

NAICS 4884 – Support Activities for Road Transportation (See Table of Permitted Uses above)

Staff is requesting to add the use of Support Activities for Road Transportation to Article 5.2.3 Table of Permitted Uses. This Sector classification includes but is not limited to (NAICS 488410) Emergency road services (i.e., tow service), Motor vehicle towing services, Tow truck services, and (NAICS 488490) Bridge, tunnel, and highway operations, Inspection or weighing services, truck transportation, Street cleaning service. Staff is requesting the Board to evaluate this use as it deems necessary in each of the existing zoning districts.

5.3.11 Miscellaneous Uses

5.3.11. B. Bona Fide Farm Purposes

Bona fide farm purposes must comply with § 106-581.1 of the North Carolina General Statutes and must meet all criteria for the state tax deferral as defined in §105-277.2 thru §105-277.7.

5.3.11. D. Swine Farms

Swine Farms – As defined in this ordinance, must meet all regulations set forth by Article 67 of §106, Et. Seq., of the NC General Statutes.

6.2 FAMILY DIVISION SUBMISSION AND APPROVAL REQUIREMENTS

6.2.2 Requirements

A. The following shall be submitted to the Administrator with each proposal for a Family Division:

- 1) Plat prepared as required by NCGS §47-30,
- 2) The plat shall be clearly designated "Family Subdivision" in bold letters,
- 3) The following statement shall appear on the plat and be signed by the Grantor(s) and Grantee(s) prior to approval:

The Grantor(s) and Grantee(s) certify that the Grantee(s) is within three (3) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Pender County Unified Development Ordinance, and that none of the lots shall be conveyed to non-family members for a period of not less than five (5) years.

Grantor

Grantee

Commentary: "Siblings are related to each other in the second degree and uncle and niece are related to each other in the third degree"

- 4) Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each lot toward a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,

- 5) The plat shows any designated Special Flood Hazard Areas located within the subdivision,
- 6) The plat shows any designated Areas of Environmental Concern located within the subdivision
- 7) An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer
- 8) The lots, other than those restricted for building development, shown on the plat meet the requirements of this Ordinance,
- 9) **The lots created have access to an access easement as defined in this ordinance.**
- 10) **The access easement must provide access to a public street.**
- 11) Waste water disposal requirements – One of the following must be met:
 - a) An Improvement Authorization Permit has been issued for each of the parcels,
 - b) The soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5000 sq. ft. is not within 10 ft of any lot boundary,
 - c) Approval has been granted to connect to public sewer or community sewer or
 - d) Lots not meeting the requirements of i. ii. or iii. are indicated by the following note: "THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRIATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE."
 - i) For alternative, see Design Requirements, Lots Section of this ordinance for "Special Purpose Lots"
- 12) The lots created have either direct access to a public street, private street or private access easement as defined in this ordinance,
- 13) The Administrator shall review the subdivision to insure that the development will not block future access to properties that are adjacent to the lots.
- 14) The plat contains the following note: "All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines."
- 15) The plat must contain the following note: "All new access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances."

6.10 LOT DESIGN

6.10.1 Requirements

- A. All lots not designated as open space, recreation, street or other reserved area shall meet all area, usable area, size, dimensional, yard and density requirements contained in Article 4, Zoning Districts and Zoning Map.
- B. All lots in a minor or major subdivision not designated as open space, recreation, street or other reserved area shall front on a public or private street for a distance of ~~30-ft~~ **45ft.**
- C. All new lots shall front on a public or private street or an access easement for a distance of ~~30-ft~~ **45ft.**
- D. No more than three lots may be created that are provided access by a single access easement.
- E. All lots or parcels shall meet the minimum access requirements established in the ~~Zoning Ordinance~~ **Unified Development Ordinance.**
- F. Access easements may not be included to meet any minimum lot area or dimension requirements for a lot.

6.10.10 Flag Lots

- A. Flag lots as described ~~defined in the Ordinance~~ **below** shall be subject to the following requirements:
 - 1) Flag lots will be approved by the Planning Board or Administrator only where the owner or applicant justifies in writing where the property has unusual topographical, soil or other natural features that would make street construction impractical or unusually expensive,
 - 2) The panhandle or access portion of the lot must be at least ~~30~~ **45** ft. wide,
 - 3) The panhandle or access portion of the lot must be no longer than 250 ft.,

- 4) The panhandle portion of the lot shall not count toward the minimum lot area, usable lot area, dimension or set back requirements for the lot,
- 5) No more than three lot panhandles shall be located on any 750 ft. street segment, including both sides of the street,
- 6) Only one single family dwelling unit may be located on a flag lot,
- 7) All flag lot panhandles shall access a public or private street,

APPENDIX A DEFINITIONS

~~BONA FIDE AGRICULTURE and FARMING:~~ Any of the following activities:

~~A. Cultivating the soil or raising or harvesting any agricultural or horticultural commodity on a farm, including the raising, shearing, feeding, caring for, training, and management of animals.~~

~~B. Handling, drying, packing, grading or storing on a farm any agricultural or horticultural commodity in its unmanufactured state but only if the owner, tenant or operator of the farm regularly produces more than 1/2 of the commodity so treated.~~

~~C. The proposal to develop or the actual development of a forest either through planting or natural regeneration, or both, or the actual maintenance of a forest by applying proven forest management practices. Such land shall, at the time of consideration as forest land, actually carry sufficient forest growth of suitable character and so distributed to give reasonable assurance that a stand of merchantable timber is developed there from.~~

The proposed changes have been advertised in the Pender Post and Topsail Voice on Wednesday, January 5, 2011 and Wednesday, January 12, 2011.

Evaluation:

As prescribed in the Pender County Unified Development Ordinance (UDO) Article 3.16.5 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, the CAMA Land Use Plan, and the specific intent of this Ordinance.

Staff Recommendation:

The proposed text amendments correct errors and revise the Unified Development Ordinance to comply with state or federal statutes or case law. Therefore, Staff is recommending approval of the amendments as presented.

