



REQUEST FOR BOARD ACTION

ITEM NO. 17.

DATE OF MEETING: May 16, 2011

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

SHORT TITLE: Public Hearing and Resolution to Amend the Pender County Unified Development Ordinance, Articles 2-11 and the Creation of an Additional Article and Appendix D.

BACKGROUND: The proposed amendments clarify development review procedures and requirements, clarify various issues that have arisen, and proposes new regulations concerning inter-parcel connections for non-residential development. The specific request consists of amending Article 2; Article 3; Article 4.6.5 C & 4.7.2A5; Article 5.2.3, 5.3.2C, 5.3.3.E.3)a)iii)c. & 5.3.10A; Article 6; Article 7.1.3A1; Article 9.5.1A1 & 9.10; Article 10.4.3B and Appendix A, Definitions; Along With the Creation of an Additional Article 7, Appendix D and Reformatting of Articles 1-12 and Appendices A-D for Corrected References.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a resolution to amend the Unified Development Ordinance, Articles 2-11 and the Creation of an Additional Article and Appendix D. The planning staff report, memorandum, and detailed amendments are attached.

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – May 3, 2011
Board of County Commissioners – May 16, 2011
Applicant: Administrator, Division of Planning
Application Number: ZTA 11-05-16-04 Pender County

Text Amendment Proposal: The request consists of amending the following articles within the Pender County Unified Development Ordinance: Article 2; Article 3; Article 4.6.5 C & 4.7.2A5; Article 5.2.3, 5.3.2C, 5.3.3.E.3)a)iii)c. & 5.3.10A; Article 6; Article 7.1.3A1; Article 9.5.1A1 & 9.10; Article 10.4.3B and Appendix A, Definitions; along with the creation of an additional Article 7, Appendix D and reformatting of Articles 1-12 and Appendices A-D for corrected references.

Background: The following text amendments are the result of various administrative discussions and situational circumstances that have been brought to Staff's attention since the approval of the previous amendment.

Administrator Recommendation: Administrator respectfully recommends **amending** the requested Articles as described in the staff report:

The following outline describes the proposed amendments by Article. The proposed amendments clarify development review procedures and requirements, clarify various issues that have arisen, and proposes new regulations concerning inter-parcel connections for non-residential development. The following is a description, by Article, of the changes that are proposed. Along with the text changes throughout the document, references to similar articles will be updated. A detailed packet of all the changes is included in the informational packet which has been distributed to accompany this report.

Article 1 – General Provisions

No Changes Proposed

Article 2 – Decision Making and Administrative Bodies

Section 2.11, the Summary of Review Authority is a table which outlines each development type and who is responsible for reviewing, recommending, or who the decision making authority may be. Staff is proposing to amend this table to comprehensively cover every type of development application or appeal for the applicant's ease of use and understanding.

Article 3 – Review Procedures

Review procedures are intended to provide guidelines for the various steps in review, recommendation, and approval for various types of applications. Currently, Article 3 includes standards for development applications which would be more appropriately located within Article 6, Development Requirements and Content. Staff is proposing to omit redundant language and rearrange guidelines to be included in Articles 6 and 7.

Article 4 – Zoning Districts

Staff is proposing clarifying language to determine the measurement of lot width. Also, the phasing requirements to record lots in the RP, Residential Performance District, have been clarified to match final plat requirements for all zoning district types.

Article 5 – Permitted Uses

Staff is proposing to add development standards for “Private Cemeteries”. Currently, private cemeteries are limited to ten (10) plots or less. With this provision, it is very difficult to enforce the size and intensity of use of said private cemetery. Private cemeteries would now be restricted based on an area less than 6,000 square feet, which is ample to support 10 plots (plots have a liberal average area of 5’x12’) as well as the required 25’ setback from property line of burials or monuments. Additionally, this revision would require a special use permit for private cemeteries 6,000 square feet or larger, which retains the intent of the previous language. Also within Article 5, the development standards for parking/storing of recreational vehicles have been clarified.

Article 6 – Development Requirements and Content

Referring back to Article 3 proposed amendments, this Article would contain all requirements and contents of development plans. This includes requirements and contents for Master Development Plans, subdivisions, and non-residential type developments.

Article 7 – Design Standards (NEW ARTICLE)

Proposed Article 7 is a new Article which will include standards related to road design, lot design, access, off-street parking, open space requirements, and other design related regulations. These regulations are taken from previous Articles 3 and 6 for the clarity and ease of use of the Unified Development Ordinance. Staff is proposing to add language requiring cross access corridors which are inter-parcel connections for adjoining non-residential type development. There is a provision allowing the Administrator to waive this requirement in such cases of environmental and safety concerns.

Article 8 – Landscaping *Previous Article 7

Proposed change includes requiring a Significant Tree Survey for Industrial zoned property. A Significant Tree Survey is defined as four specific species (American Holly-6" caliper; Flowering Dogwood-4" caliper; Water Oak-8" caliper; and a Live Oak-8" Caliper) which would need to be identified and preserved prior to the development process. Currently, a Significant Tree Survey is only required prior to development for commercial and mixed use zoning districts. Preservation of significant trees, as defined, adds to the character and preservation of developed sites.

Article 9 – Flood Damage Prevention *Previous Article 8

No Changes Proposed

Article 10 – Signs *Previous Article 9

Staff interpretation and discussions with the Planning Board have resulted in proposed clarifying language to address on and off premise real estate signage. Staff is proposing language which allows for the placement of directional off-premise real estate signage with significant design and regulation criteria to be met by the applicant. These types of signs will be limited to one per development and must be separated by at least 300' from the nearest directional off-premise real estate signage.

Article 11 – Nonconformities *Previous Article 10

Staff is proposing to delete conflicting language referencing non-conforming structures.

Article 12 – Enforcement and Penalties *Previous Article 11

No Changes Proposed

Appendix A – Definitions

Staff is proposing to add five (5) new or clarifying definitions. These include: Cottage Occupation, Cross Access, Environmental Features, Lot Width, and Private Cemetery.

Appendix D – Typical Forms and Surveyor Notes

The proposed Appendix D will include surveyor notes for recording plats, sample financial guarantee forms, private road disclosure statement, and family division statements.

The proposed changes have been advertised in the Pender Post and Topsail Voice on Wednesday, April 20th, 27th, May 4th, and Wednesday, May 11, 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.

Comprehensive Land Use Plan Compliance:

Policy 2B.1.12

The County should consider conducting studies and engaging in special planning initiatives for major transportation corridors within its jurisdiction to implement supportive plans and ordinances to assist in accomplishing the following objectives: *preserving and maintaining existing and future transportation facilities and corridors; improving safety, site access and design standards.*

There are no other conflicting policies within any adopted land use documents.

Staff Recommendation:

The proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements; therefore, staff is recommending approval of the amendments as presented.

Planning Board

Motion: _____ Seconded: _____

Approved: _____ Denied: _____ Unanimous _____

Boney ___ Smith ___ Edens ___ Garrett ___ Marshburn ___ Millette ___ Williams ___