



REQUEST FOR BOARD ACTION

ITEM NO. 25

DATE OF MEETING: August 15, 2011

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

SHORT TITLE: Resolution to Amend the Pender County Unified Development Ordinance, Sections 3.7.2, 3.10.1, 3.14.1.F, 4.6.3.A, 4.7.4, 4.14, 5.2.3, 5.3.2.C, 5.3.2.D, 5.3.8.A, 5.3.11.B-J, and Appendix A; Along with the Creation of an Additional Section 3.19, Section 5.3.11.K, and Section 5.3.11.L, as well as Revising References in Articles 1-12 and Appendix A.

BACKGROUND: The proposed amendment clarifies various issues that have arisen concerning permitting and reviewing manufactured home communities, community and private boat facilities, and temporary events. Additionally, the amendment includes revisions to family home care facilities and bona fide farms per North Carolina General Statute. The specific request consists of amending Sections 3.7.2, 3.10.1, 3.14.1.F, 4.6.3.A, 4.7.4, 4.14, 5.2.3, 5.3.2.C, 5.3.2.D, 5.3.8.A, 5.3.11.B-J, and Appendix A ; along with the creation of an Section 3.19, Section 5.3.11.K, and Section 5.3.11.L and Articles 1-12 and Appendix A for corrected references. The Planning Staff report and detailed amendments are attached.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a resolution to amend the Unified Development Ordinance, Sections 3.7.2, 3.10.1, 3.14.1.F, 4.6.3.A, 4.7.4, 4.14, 5.2.3, 5.3.2.C, 5.3.2.D, 5.3.8.A, 5.3.11.B-J, and Appendix A; along with the creation of an additional Section 3.19, Section 5.3.11.K, and Section 5.3.11.L, as well as revising references in Articles 1-12 and Appendix A.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval

Initial

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that on August 15, 2011 the Pender County Board of Commissioners (approved, modified, denied) a zoning text amendment request, as described herein. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Brown: _____ Tate: _____ Rivenbark: _____ Ward: _____ Williams: _____

George R. Brown, Chairman 8-15-2011
Date

ATTEST 8-15-2011
Delivered DATE

PLANNING STAFF REPORT

Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – August 2, 2011
Board of County Commissioners – August 15, 2011
Applicant: Administrator, Division of Planning
Application Number: ZTA 10028 Pender County

Text Amendment Proposal: The request consists of amending the following sections within the Pender County Unified Development Ordinance: Sections 3.7.2, 3.10.1, 3.14.1.F, 4.6.3.A, 4.7.4, 4.14, 5.2.3, 5.3.2.C, 5.3.2.D, 5.3.8.A, 5.3.11.B-J, and Appendix A; along with the creation of an additional Section 3.19, Section 5.3.11.K, and Section 5.3.11.L, as well as revising references and language in Articles 1-12 and Appendix A.

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 Unified Development Ordinance as described in the staff report:

The following outline describes the proposed amendments by topic. The proposed amendment clarifies various issues that have arisen concerning permitting and reviewing manufactured home communities, private residential boating facilities, community boating facilities, and temporary events. Additionally, the amendment includes revisions to bona fide farms and family care home facilities per North Carolina General Statutes.

The following is a description, by topic, of the changes that are proposed. Along with the proposed amendment, language and references concerning manufactured homes or manufactured home communities will be revised for consistency. A detailed packet of all the changes is included in the informational packet which has been distributed to accompany this report.

Manufactured Home Community

The current standards provided in the Unified Development Ordinance do not provide sufficient information and detail to assist Staff in reviewing and permitting manufactured home communities within the County. The proposed provisions concerning manufactured home communities create a new review procedure, outlined in Article 3, that details the review process required for all manufactured home communities. Staff is proposing that all new manufactured home communities be reviewed as a major subdivision and follow the master development review process. Additional proposals include the combination of existing standards in Section 4.7.4 with the addition of new standards outlined in Article 5. These proposed standards are consistent with existing criteria in the Unified Development Ordinance, the North Carolina Building Code, and the Pender County Mobile Home and Travel Trailer Park Ordinance effective October 1984 to July 2010. Based on recommendations from

Planning Board, Staff is also proposing an amendment to the table of permitted uses allowing manufactured home communities in the MH, Manufactured Home zoning district only. Other amendments are proposed in Article 4 and Appendix A to clarify manufactured home community standards.

Boat Access Facilities

Staff is proposing language to review and permit private residential boating facilities and community boating facilities. Both private residential and community boating facilities may include a dock, pier, and launching ramp. Currently, the Unified Development Ordinance does not allow private residential boating facilities on a vacant residential lot or permit community boating facilities in any district. Based on recommendations from Planning Board, Staff is proposing revisions to Section 5.2.3, Table of Permitted Uses and Section 5.3.11, Miscellaneous Uses to permit private residential on vacant lots and community boating facilities within the RA, RP, RM, MH, and PD zoning districts with standards. Community boating facilities shall be permitted either in conjunction with a Master Development Plan or Special Use Permit. Both of these uses will be limited in size and shall prohibit commercial activities of any kind. Staff is also proposing a revision to existing standards regarding marinas outlined in Section 5.3.11.C and Appendix A, Definitions.

Temporary Events

Staff is proposing to revise existing standards for all temporary events. Currently, temporary events are permitted for a period of 4 to 30 days in permitted zoning districts. In addition, temporary events on the site of the principal use that last less than three days do not require a permit. With these standards it is very difficult for staff to permit temporary events within the County. The amendment proposes to allow temporary events up to sixty days and would not require the event to be on a site with a principal use. Existing standards requiring review by a Building Inspector, Health Director, and Fire Marshal will continue to be required to efficiently review the event for public safety and welfare.

Bona Fide Farms

Based on the recently adopted North Carolina General Statute standards concerning Bona Fide Farms, staff is proposing to update Section 5.3.11.B and Appendix A, Definitions to be consistent with NCGS § 105-277.3.

Family Home Care

Staff is proposing the addition of Family Home Care to Section 5.2.3, Table of Permitted Uses and Section 5.3.11.C to reference standards established in the North Carolina General Statutes. These proposals will be consistent with NCGS § 168, Article 3.

Public Park Definition

Within Section 5.2.3, Table of Permitted Uses a use is identified as a “public park”, however, there is no definitive language that would distinguish this type of facility. As the county develops further parks and recreational opportunities, it will be necessary to incorporate this definition within Appendix A, Definitions, to coincide with the established use.

Miscellaneous Revisions

Additional revisions are proposed for Section 3.10.1, Section 3.14.1, Section 5.6.3, and Appendix A. These corrections are proposed to clarify items that have been brought to Staff’s attention since the approval of the previous amendment.

The proposed changes have been advertised in the Pender Post and Topsail Voice on Wednesday, August 3, 2011 and Wednesday, August 10, 2011.

Evaluation:

As prescribed in the Pender County Unified Development Ordinance (UDO) Article 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 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:

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. The Planning Board unanimously recommends approval of the request.

3.7.2 Activities Requiring Major Site Development Plans

- A. In order to ensure that the requirements of this Article have been met, a site plan shall be required to be submitted to the Administrator for the following uses:
1. Any non-residential, multi-family, or mixed uses in the RA, OI, GB, IT and GI zoning districts.
 2. Any type of development greater than 2,501 square feet in area that does not qualify for a minor site development plan.
 3. Multifamily (condominium/apartment) development not requiring a preliminary plan.
 4. ~~Manufactured Home Parks.~~
 5. Required recreational facilities or amenities.
- B. No permit shall be issued for the construction of any building or improvement on the site of any of the above uses until the site plan is approved

3.10 MAJOR SUBDIVISION**3.10.1 Intent**

Proposed subdivisions consisting of ~~ten (10)~~ eleven (11) lots or more are classified as Major Subdivisions and are required to follow the Master Development Plan review process found in Figure 2 and 3 at the end of Section 3.4. All major subdivisions shall include a preliminary and final plat. Upon approval of the Master Development Plan by the Planning Board, the applicant may proceed with the preparation of the preliminary plat.

3.14.1 Applicability

- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated elsewhere in Section 3.14.7 this Ordinance.

3.19 MANUFACTURED HOME COMMUNITY (NEW SECTION)**3.19.1 Intent**

- A. Proposed manufactured home communities shall be classified as a Major Subdivision and be required to follow the Master Development Plan review process prescribed at the end of Section 3.4 outlined in Figure 2 and 3. All Manufactured Home Communities shall include a preliminary and final plat. Upon approval of the Master Development Plan by the Planning Board, the applicant may proceed with the preparation of the preliminary plat

3.19.2 Review

- A. All new manufactured home communities and additions or alterations to existing communities must be in accordance with this Ordinance.
- B. Completed plats, application, fees and other required data must be submitted 45 days prior to the next scheduled Planning Board meeting.
- C. When required submission material is submitted as noted above, it shall be placed on the next scheduled Planning Board agenda, if applicable.
- D. Manufactured home communities must meet all requirements prescribed in Section 3.10, Major Subdivision and Section 5.3.2.D, Manufactured Home Community.

- E. The Administrator shall forward the site plan to the Technical Review Committee for review. The Committee shall make recommendations to the Administrator concerning whether the plan meets the requirements of any Pender County Codes or Ordinances and other State or Federal regulations as appropriate within ten (10) business days.
- F. The Administrator shall determine and provide comments to the applicant whether the site plan is in conformance with applicable sections of this Ordinance.
- G. Approval of the site plan shall expire within two years of the approval date unless building permits have been obtained for construction.
- H. The Administrator shall periodically inspect the site during development to ensure that the site plan requirements are met.
- I. Final Zoning Approval shall not be issued for any use or site requiring a site plan until all requirements shown on the approved site plan have been met and all improvements shown on the site plan have been provided. If structures and improvements have been provided sufficient to guarantee public health and safety but if all site plan improvements have not been completed, a certificate of occupancy shall only be issued if a bond with surety or other acceptable guarantees have been provided to insure that all approved improvements will be provided. Such guarantees shall be for a limited time period acceptable to the Administrator, during which time said improvements shall be completed.

4.6.3 Standard Minimum Separation between Buildings

- A. The minimum required separation between buildings shall be in accordance with Section 4.14, Zoning District Dimensional Requirements. ~~the latest edition of the International Building Code with North Carolina Amendments.~~

4.7.4 MH: Manufactured Housing Community

The MH Manufactured Housing Community District is designed to provide for planned communities for manufactured homes. This district is intended for the location of manufactured homes on land under common ownership or for the creation of lots for manufactured homes.

Such planned developments are intended to be provided with appropriate roadways and amenities and suitable landscaping and transition areas to blend the Manufactured Housing Community with surrounding land uses.

~~A. Permitted uses:~~

- ~~1) Manufactured Homes~~
- ~~2) Manufactured Housing Community parks.~~
- ~~3) Accessory uses.~~
- ~~4) Home occupations.~~
- ~~5) Totally enclosed storage facilities for use by the residents of the Manufactured Housing Community Park or subdivision.~~
- ~~6) Business signs associated with schools, churches, public parks, playgrounds and recreational uses, fire stations and companies and rescue squads.~~
- ~~7) Residential subdivision identification signs.~~

~~B. Subdivision and development requirements.~~

- ~~1) Manufactured homes may be located in planned developments on parcels of land under common ownership or as Manufactured Housing Community. Such Manufactured Housing Communities shall meet the following requirements.~~

~~C. Dimensional requirements.~~

- ~~1) Density. The gross density of any Manufactured Housing Community or subdivision shall not exceed eight units per acre.~~
- ~~2) Spacing requirements. No Manufactured Housing Community shall be placed within 20 feet of another.~~
- ~~3) Lot requirements. Minimum lots of 4,000 square feet shall be established for each dwelling unit. The corners of such lots shall be clearly posted by permanent markers which shall be maintained.~~
- ~~4) Setbacks. All dwelling units shall be set back a minimum of 20 feet from any street right-of-way. All dwelling units shall be set back at least 10 feet from all common areas, parking lots and sidewalks. All accessory uses shall be set back at least five feet from any lot line or property boundary.~~
- ~~5) Perimeter. All structures shall be set back at least 50 feet from the perimeter boundary of the Manufactured Housing Community.~~

~~D. Common areas. All Manufactured Housing Community and subdivisions shall have a common area of at least 15% or 4,000 square feet in area, whichever is greater.~~

~~E. Homeowners' associations. In the case of Manufactured Housing Community subdivisions, common areas shall be dedicated to and maintained by homeowners' associations. The Manufactured Housing Community subdivisions and the homeowners' associations shall meet all requirements of this chapter.~~

~~F. Streets: All Manufactured Home Communities can have public or private streets and designed in accordance with Article 7, Design Standards.~~

~~G. Off-street parking. At least two off-street parking spaces shall be provided for each dwelling unit. Manufactured Housing Community and subdivisions may employ common parking lots to provide off-street parking. Such parking lots shall meet all requirements of this chapter.~~

~~H. Amenities.~~

~~I. Water and Sewer Requirements.~~

4.14 ZONING DISTRICT DIMENSIONAL REQUIREMENTS
Dimensional Requirements Table

Dimensional Standards	RA	RP	RM	MHI	CB	OI	IT	CI	PD	CD
Lot Size	1 Acre	15,000(5) Sq. Ft.	(1)	(7)	15,000 Sq. Ft.	15,000 Sq. Ft.	1 Acres	1 Acres	(1)	1 Acre
Lot Size Duplex	60,000 Sq. Ft.	22,000 Sq. Ft.	(1)						(1)	
Min. Area Rezoning(3)	NA	5 Acres	10 Acres	5 Acres	1 Acre	1 Acre	5 Acres	5 Acres	100 acres	NA
Min. Lot Width-Ft	100	80(6)	(1)	(7)	80	80	100	100	(1)	100
Min. Chord Length at ROW line for "cul de sac's"	45	30	(1)	20	30	30	45	45	(1)	45
Min. Front Yd.-Ft.	30	30	(1)	(7)	25	25	40	50	(1)	50
Min. Side Yard-Ft	15	10	(1)	(7)	10	10	25	25	(1)	25
Min. Rear Yard-Ft	30	25	(1)	(7)	10	10	25	25	(1)	25
Max. Height-Ft	35(2)	35(2)	45	35	40	40	50	50	(1)	40
Min. Req. Structure Separation	40	30	(1)		50	50	50	100	(1)	30

(1) Dimensional standards in the Planned Development (PD) and Residential Mixed (RM) Districts are required to be specified on a Master Development Plan.

(2) Maximum Height requirements in the RA and RP Zoning District shall be allowed an additional 10' feet if located within any Special Flood Hazard Area (SFHA) at the calculation of 5 additional feet in building height per every 2 feet built above the prescribed Base Flood Elevation (BFE) up to a maximum of forty five (45') feet.

(3) Any parcel of property meeting the guidelines set forth in Sections 3.3 or 3.4 that adjoins an established zoning district that is identical to the district that is applying for a rezoning shall not have to meet the minimum area requirements for rezoning for that district.

(4) The minimum required separation standards are for principal or primary structures, accessory structures must follow separation and setback requirements as outlined in Sections 4.6.3 and 5.3.3.A.

(5) Minimum lot sizes in the RP zoning district may be reduced to 12,000 square feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.

(6) Minimum lot width in the RP zoning district may be reduced to sixty (60') feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.

(7) Dimensional requirements for a Manufactured Home District can be found in Section 5.3.2.D, Manufactured Home Community.

5.2.3 Table of Permitted Uses

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	IMH	PD	GB	OI	IT	GI	EC
RESIDENTIAL											
Manufactured Home Community					PMD						
Zoning Districts											
Use Type	Ref NAICS	RA	RP	RM	IMH	PD	GB	OI	IT	GI	EC
MISCELLANEOUS USES											
Bona fide Farm Purposes		D	D	D	D	D	D	D	D	D	D
Community Boating Facility		SD	SD	SD	SD	SD					
Community Boating Facility in conjunction with a Master Development Plan		SD	PMD	PMD	PMD	PMD					
Private Residential Boating Facility		D	D	D	D	D					
Marina (Commercial)		S	PM			PM					
Family Care Home		D	D	D	D						
Temporary Events		D					D	D	D	D	

5.3.2 Residential Uses

C. Manufactured Home

- 1) Manufactured Homes shall not be allowed in previously zoned R-20C zoning districts prior to the adoption of this Ordinance.
- 2) Manufactured homes constructed prior to July 1, 1976 may not be brought into or relocated in the County. Mobile or manufactured homes which, at the time of construction, were not built to the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974 (effective 1976) are prohibited within the county. However, existing manufactured homes constructed prior to July 1, 1976 shall remain permitted as a nonconforming structure.
- 3) All manufactured homes shall be used only as a residential dwelling unit. No manufactured home shall be used as a storage building upon any lot at any time nor shall a manufactured home be used as a commercial or business structure or use.

D. Manufactured Home Community

- 1) All manufactured homes located in a manufactured home community must meet the standards of Section 5.3.2.C, Manufactured Homes.
- 2) All manufactured home community shall be at least five (5) acres in size.
- 3) All communities must have eleven (11) lots or more.
- 4) The following lot sizes shall be permitted in a manufactured home community:
 - a. Manufactured home spaces served by public water and a public sewerage system shall have a minimum of 7,000 square feet.
 - b. Manufactured home spaces served only by either public water or a public sewerage system shall have a minimum of 12,000 square feet.
 - c. Manufactured home spaces served by neither public water nor a public sewerage system shall have a minimum of 15,000 square feet.
- 5) All manufactured home communities must adhere to the following dimensional requirements:

Minimum Lot Width	50 feet
Minimum Front Yard Setback	20 feet
Minimum Side Yard Setback	10 feet
Minimum Rear Yard Setback	20 feet
Minimum Structure Separation	20 feet
Minimum Exterior Property Boundary Setback	20 feet

- 6) All communities shall adhere to Article 8, Landscaping and Buffering.
- 7) Manufactured home communities must meet Open Space requirements per Section 7.6, Open Space.
- 8) Manufactured home community operators shall make arrangements for a private vendor or other sources to collect refuse, either from individual spaces or from centrally located dumpster sites. All dumpster locations are to be fenced and screened from view. Individual refuse receptacles shall be waterproof and rodent proof.
- 9) All communities are to be provided with a sewage collection system and/or septic tanks approved by the appropriate health agency. If a centralized sewer system is to be used, it

shall meet the requirements of the Pender County Health Department or appropriate state agency.

- 10) All communities shall obtain water from a public source or a source as approved by the Pender County Health Department.
- 11) Each manufactured home shall be set up and anchored in accordance with the North Carolina Uniform Standards Code for Mobile Homes (Chapter 143, Article 9A of the North Carolina General Statutes).
- 12) All accessory structures in a manufactured home community shall not be greater than 600 square feet and meet the standards prescribed in Section 5.3.3.A.1, Accessory Uses and Structures.
- 13) Accessory structures shall be located only on the site space containing that manufactured home and may not be located in any required manufactured home community yard.
- 14) Each space shall be equipped with water, sewer, and electrical connections.
- 15) All streets must adhere to Section 7.5, Street Design and have direct access to a publicly maintained road.
- 16) No individual manufactured home shall have direct access to a publicly maintained road.
- 17) All streets will be appropriately identified with street name signs as applicable.
- 18) Two automobile parking spaces shall be provided for each manufactured home lot and shown on the Master Development Plan and Preliminary Plat. No portion of the required spaces shall be within any street right of way.
- 19) Common areas shall be dedicated to and maintained by the community owner and meet all the requirements of Section 7.6.E.10.
- 20) All manufactured home spaces shall be permanently identified by permanent markers or monuments.
- 21) No recreational vehicles shall be permitted within a manufactured home community.
- 22) Any land within the jurisdiction of a Special Flood Hazard Area shall be prohibited for residential development, but may be set aside for passive open space.
- 23) Within a manufactured home community, one structure may be used as an administrative office.
- 24) The operator of a manufactured home community shall keep an accurate register containing a list and description of all homes located in the community and owner thereof.