



REQUEST FOR BOARD ACTION

ITEM NO. 19.

DATE OF MEETING: November 21, 2011

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

SHORT TITLE: Resolution to Amend the Pender County Unified Development Ordinance, Sections 2.4.1.B.2, 3.10.3.K, 3.11.1.C.7, 5.2.3, 5.3.11.F-O, 6.2.C.18, 6.3.C.27, and Appendix A; Along with the Creation of an Additional Section 3.5.4.I, Section 3.9.3.I, Section 5.3.11.P, Section 9.4.2.A.1.h, as well as Revising References in Article 1-12 and Appendix A.

BACKGROUND: The proposed amendment clarifies various issues that have arisen concerning reviewing and permitting portable storage containers, Board of Adjustment member's term of office, site plan's period of validity, and defining public and private water and wastewater systems. The specific request consists of amending Sections 2.4.1.B.2, 3.10.3.K, 3.11.1.C.7, 5.2.3, 5.3.11.F-O, 6.2.C.18, 6.3.C.27, and Appendix A; along with the creation of an additional Section 3.5.4.I, Section 3.9.3.I, Section 5.3.11.P, Section 9.4.2.A.1.h, as well as revising references in Article 1-12 and Appendix A. 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 2.4.1.B.2, 3.10.3.K, 3.11.1.C.7, 5.2.3, 5.3.11.F-O, 6.2.C.18, 6.3.C.27, and Appendix A; along with the creation of an additional Section 3.5.4.I, Section 3.9.3.I, Section 5.3.11.P, Section 9.4.2.A.1.h, as well as revising references in Article 1-12 and Appendix A.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that

on November 21, 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

11-21-2011
Date

ATTEST

11-21-2011
DATE

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – November 1, 2011
Board of County Commissioners – November 21, 2011

Applicant: Administrator, Division of Planning

Application Number: ZTA 10139 Pender County

Text Amendment Proposal: The request consists of amending the following sections within the Pender County Unified Development Ordinance: Sections 2.4.1.B.2, 3.10.3.K, 3.11.1.C.7, 5.2.3, 5.3.11.F-O, 6.2.C.18, 6.3.C.27, and Appendix A; along with the creation of an additional Section 3.5.4.I, Section 3.9.3.I, Section 5.3.11.P, Section 9.4.2.A.1.h, 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.

Planning Board Recommendation: The Pender County Planning Board, at the November 1, 2011 meeting voted unanimously to pass a motion recommending approval of this request.

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 reviewing and permitting temporary portable storage containers, Board of Adjustment member's term of office, site plan's period of validity, and defining public and private water and wastewater systems. The following is a description, by topic, of the changes that are proposed. A detailed packet of all the changes is included in the informational packet which has been distributed to accompany this report.

Portable Storage Containers

Staff is proposing language to review and permit portable storage containers. The proposed amendment is an outcome of the increasing popularity of temporary portable storage containers being used as accessory structures in the County. Currently, the Unified Development Ordinance does not provide any regulations or standards on the use of portable storage containers. Due to the lack of regulations, many portable storage containers are being used as permanent accessory structures instead of their intended purpose as a transit storage unit or temporary storage use. The proposed text amendment will provide regulations on the dimensions, location, allowed time, and use of portable storage containers in all residential, commercial, and industrial zoning districts.

Board of Adjustment Member's Term

Staff is proposing to revise existing term of office standards for Board of Adjustments members. The amendment will allow Board of Adjustment members to be reappointed up to four terms, not to exceed ten years. The proposed changes are consistent with NCGS § 153A-345.

Validity of Site Plans

Staff is proposing to revise the existing time periods in which residential and commercial site plans remain valid. Current standards provided for Minor Site Development Plans and Major Site Development Plans found in Section 3.6 and Section 3.7 are not consistent with the time periods outlined in Section 6.2 and Section 6.3. Additionally, there is no valid time period standards provided for Master Development Plans or Minor Subdivisions. The proposed corrections are to clarify how long all residential and commercial site plans are valid from the initial approval date.

Public and Private Water and Wastewater Systems

Throughout the Unified Development Ordinance, existing regulations identify guidelines regarding public and private water and wastewater systems. However, there is no language provided in Appendix A, Definitions that discerns between the different facilities. Staff is proposing the addition of four definitions in Appendix A in order to establish standards to differentiate public and private water and wastewater systems.

Miscellaneous Revisions

Additional revisions are proposed for Section 3.11.1 and Section 9.4.2 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, November 9, 2011 and Wednesday, November 16, 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 respectfully recommends that the amendments are approved as presented.

VOTING AND RESOLUTION:

Planning Board

Motion: Garrett Seconded: Edens

Approved: X Denied: _____ Unanimous: X

Boney: X Smith: X Edens: X Garrett: X Marshburn: X Millette: __ Williams: X

BOARD OF ADJUSTMENT**2.4.1 Establishment, Membership, and Rules of Procedure****B. Membership**

- 1) The BOA shall consist of five (5) members who shall be residents of the County of Pender.
- 2) The members shall be appointed by the Board of Commissioners for a regular term of office of three (3) years. Board members ~~whose terms have expired~~ may be reappointed for up to four terms ~~one additional term~~ so long as their length of service on the Board does not exceed ~~six (6) years~~ ten (10) years. In appointing members to fill vacancies, the Board of Commissioners shall appoint persons to serve the remaining term of office rather than a full three (3) years.

3.5.4 Review

- I. Planning Board Master Development Plan approval shall be valid for two (2) years.

3.9.3 Review

- I. Approval of the preliminary plat shall be valid for two (2) years of the approval date unless building permits have been obtained for construction.

3.10.3 Review

- K. All conditions of preliminary plat approval must be completed and submitted within 24 ~~months~~ two (2) years of the approval date.

3.11 SKETCH DEVELOPMENT PLAN**3.11.1 Sketch plans shall be submitted for the application and approval of the following development types:**

- A. Individual residential development in all applicable zoning districts.
- B. Accessory uses and structures as prescribed in Section 5.2, Table of Permitted Uses in all residential districts.
- C. Contents of sketch development plans
 1. Minimum scaled at 1"=60', boundary of the entire tract to be developed;
 2. Setbacks determined by zoning district and housing type;
 3. Driveway location;
 4. Existing accessory structures;
 5. Location of water/septic services or confirmation of hook up to public provided service;
 6. Any restrictions/easements located on the property including utilities, access, etc.;
 7. ~~Areas of Environmental Concern (Flood Hazard Areas, wetlands, CAMA determinations, etc.)~~
The location and approximate boundaries of existing environmental features as defined.

5.2.3 Table of Permitted Uses

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	OS	OI	IT	GI	BC
MISCELLANEOUS USES											
Portable Storage Containers		D	D	D	D	D	D	D	D	D	

5.3.11 Miscellaneous Uses

F. Portable Storage Containers

- 1) A portable storage container may be placed for fifteen or less consecutive days in any twelve month period without issuance of a permit in all zoning districts, except Environmental Conservation.
- 2) All portable storage containers located on private property to be placed for sixteen or more consecutive days must apply for and obtain a permit. Each individual shall submit a complete application, site plan, and fee for review and approval by the Administrator or their agent.
- 3) All portable storage containers located in the front or side yard must be placed in an area primarily used for vehicular access such as a driveway or other paved surface.
- 4) All containers must adhere to the minimum setbacks for the zoning district when possible and must be five (5) from all other structures.
- 5) No portable storage container shall be greater than twenty (20) feet in length, eight (8) feet in width, or eight (8) feet in height.
- 6) More than one portable storage container shall be allowed on a single lot as long as the total square footage of all containers does not exceed 160 square feet.
- 7) Stacking of portable storage containers shall not be permitted.
- 8) No sign shall be attached to a portable storage container other than the provider's contact information.
- 9) Portable storage containers shall be allowed no more than two (2) times on a lot for a period no longer than 60 days within a twelve (12) month period when the following items are met. A longer extension may be granted for portable storage containers located in all nonresidential districts, excluding Environmental Conservation, up to 180 days within a twelve (12) month period approved by the Administrator when the following items are met:
 - a. The principal structure is damaged and dilapidated and is undergoing repairs, reconstruction, or renovation.
 - b. A building permit has been issued for the repairs, constructions, reconstruction, or renovation, if required, and is valid throughout the extension.

6.2 MINOR SITE DEVELOPMENT PLAN CONTENTS

C. Site plan and details section

- 18) Administrator, approval date, and a statement that reads "site plan valid for five two (2) years from approval date."

6.3 MAJOR SITE DEVELOPMENT PLAN CONTENTS

C. Site plan and details section

- 27) A space labeled "Approved by the Pender County Unified Development Administrator" for the signature of the Administrator, approval date, and a statement that reads "site plan valid for five two (2) years from approval date."

9.4.2 Floodplain Development Application, Permit and Certification Requirements

- A. Application Requirements. Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:
- 1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - h) When a lot or a portion thereof is located in a FEMA designated Special Flood Hazard Area for which elevations have been established, additional information will be required including a map of the lot or building site signed and sealed by a Licensed Surveyor showing an existing established elevation bench mark on the site within 50' of the proposed structure.

Appendix A – Definitions

COMMUNITY WASTEWATER SYSTEM: A sanitary wastewater facility which is publically or privately owned and established to serve more than one single residential dwelling, commercial, and/or industrial development and is approved through a state agency or utilities commission.

COMMUNITY WATER SYSTEM: A public water supply system established to serve all or a portion of a residential, commercial, and/or industrial development year round and is approved through a state agency or utilities commission.

PORTABLE STORAGE CONTAINERS: A container designed to store personal property which are typically rented and intended to be delivered, temporarily used, and removed by truck. Portable storage containers shall not be used as an accessory structure or dwelling and shall not impede public vehicular or pedestrian access or create a public safety hazard. This definition includes shipping containers and other portable self storage units.

PUBLIC WASTEWATER SYSTEM: A single system of wastewater collection, treatment, and disposal owned and operated by a sanitary district, water and sewer authority, county, municipality, or a public utility.

PUBLIC WATER SYSTEM: A water system owned and operated by a public entity, including municipal and sanitary district water systems, approved by a public entity or water and sewer district.