



REQUEST FOR BOARD ACTION

ITEM NO. 19

DATE OF MEETING: June 18, 2012

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

SHORT TITLE: Resolution to Amend the Pender County Unified Development Ordinance to Include Standards for Sweepstakes Centers Within Sections 5.2.3, 5.3.11.I, and Appendix A; Along with the Creation of an Additional Section 5.3.11.P, 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 sweepstake centers. The specific request consists of amending Sections 5.2.3, 5.3.11.I and Appendix A; along with the creation of Section 5.3.11.P. 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 5.2.3, 5.3.11.I and Appendix A; along with the creation of an additional Section 5.3.11.P, as well as revising references in Articles 1-12 and Appendix A.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that on June 18, 2012 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

6-18-2012
Date

ATTEST
Delivered

6-18-2012
DATE

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – June 5, 2012
Board of County Commissioners – June 18, 2012

Applicant: Administrator, Division of Planning

Application Number: ZTA 10720 Pender County

Text Amendment Proposal: The specific request consists of amending Sections 5.2.3, 5.3.11.I and Appendix A; along with the creation of Section 5.3.11.P, as well as revising references and language in Articles 1-12 and Appendix A.

Background: The following text amendment is based off of discussions with the Board of County Commissioners and Planning Board to address concerns of public health, safety, and general welfare regarding sweepstakes centers in the County.

Planning Board Recommendation: The Pender County Planning Board, at the June 5, 2012 meeting voted 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 and supplemental information provided herein:

The proposed amendment clarifies various issues that have arisen with the Board of County Commissioners concerning permitting and reviewing sweepstakes centers within the County.

The following is a description of the changes that are proposed. Along with the proposed amendment, language and references concerning sweepstakes centers 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.

Sweepstake Centers

Within the last year, Planning Staff and the Board of County Commissioners have experienced an increase in the number of inquiries and Special Use Permit applications regarding sweepstakes centers in Pender County. The recent interest in sweepstakes centers within the County is reflective throughout the state, with the popularity of sweepstakes establishments growing in counties and municipalities across the region. Many jurisdictions across the state have adopted standards on sweepstakes centers regulating their location to schools, churches, and other sweepstakes establishments. Other adopted standards regulate hours of operation and require annual inspections. Similar to these standards, the County is proposing a text amendment of which all new sweepstakes centers must comply. Existing sweepstakes centers will not be required to meet the new standards and will be classified as a legal nonconforming use. A legal nonconforming use is a principal or accessory land use, other than a nonconforming sign, that was lawfully established in accordance with zoning regulations in effect at the time of its establishment, but is no longer allowed by the use regulations of

the zoning district in which it is now located. If an existing sweepstakes center proposes any alteration or expansion in the future, they will be required to meet the proposed standards at that time. The proposed amendments are consistent with North Carolina General Statute § 153A-341.

The proposed provisions include standards regarding location, hours of operation, and require compliance with the Department of Planning and Community Development, Department of Environmental Health, and the Pender County Fire Marshal.

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 Zoning 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 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.

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 amendment as presented.

Planning Board

Motion: Garrett Seconded: Marshburn

Approved: X Denied: _____ Unanimous: _____

Boney: X Edens: X Garrett: X Marshburn: X Millette: _____ Nalee: X Williams: X

5.2.3 Table of Permitted Uses

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	CB	CH	IT	GI	BC
MISCELLANEOUS USES											
Sweepstakes Center								SD		SD	SD

5.3.11 Miscellaneous Uses

I. Sweepstakes Center

- 1) Sweepstakes centers shall be permitted in accordance with Section 5.2.3, Table of Permitted Uses.
- 2) All new sweepstakes centers and additions or alterations to existing sweepstakes centers must be in accordance with this Ordinance.
- 3) Sweepstakes Centers shall be located a minimum distance of 500 feet, measured in a straight line in any direction from the closest point of the building or unit of the proposed business to the property line of any of the following:
 - a) Religious Organizations as defined by NAICS code 813110
 - b) A public or private school and family child care home or child care center with an active license with the State of North Carolina
 - c) A public park, playground, public library, or private cemetery
 - d) Drinking Places (Alcoholic Beverages) as defined by NAICS code 722410
 - e) Adult and Sexually Oriented Businesses
 - f) Any other approved sweepstakes center
- 4) Hours of operation shall be limited Monday to Saturday from 9:00 a.m. to 12:00 midnight and on Sunday from 12:00 noon to 10:00 p.m.
- 5) All food or beverage to be served or distributed by the establishment must meet the requirements of the Pender County Environmental Health Department.
- 6) Sweepstakes centers shall receive approval from the Pender County Fire Marshal prior to occupancy and must comply with annual review standards.
- 7) Sweepstakes centers must meet indoor recreation parking requirements as outlined in Section 7.10, Off Street Parking and Loading/Parking Requirements
- 8) All zoning and building permits issued after June 18, 2012 for all sweepstakes centers shall be subject to an annual review and inspection (from the date of approval) to ensure compliance with this Ordinance.

Appendix A – Definitions

~~**CHURCH:** Buildings or structures primarily intended for the conduct of organized religious services and associated accessory uses.~~

RELIGIOUS ORGANIZATIONS: Churches, mosques, synagogues, temples or other place of religious worship, including any accessory use or structure, such as an office or dwelling located on the same lot.

PLAYGROUND: A recreational area, including a play apparatus, designed to offer recreation to the public.

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 10720	Date	5/16/2012
Application Fee	\$ N/A	Receipt No.	N/A
Pre-Application Conference	4/19/2012	Hearing Date	6/5/2012 - 6/18/2012
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Pender County Planning and Community Development		
Applicant's Address:	805 S. Walker Street		
City, State, & Zip	Burgaw, NC 28425		
Phone Number:	910-259-1202		
SECTION 2: UDO TEXT TO BE AMENDED			
Current Text to be Amended (Please site accurate Article number referenced):			
Sections 5.2.3, 5.3.11.I, and Appendix A. Additional revisions to Article 1-12 and Appendix A			
Proposed Text to be added:			
Section 5.3.11.P			
SECTION 3: SIGNATURE			
Applicant's Signature			Date: 5/16/2012
NOTICE TO APPLICANT			
If the applicant makes significant changes to the application for a text amendment after the Planning Board has made its recommendation, the Administrator may refer the modified request back to the Planning Board for an additional public hearing.			
TEXT AMENDMENT CHECKLIST			
<input checked="" type="checkbox"/>	Signed application form		
<input type="checkbox"/>	Application fee N/A		
<input checked="" type="checkbox"/>	A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Section 3.18.5 of the Pender County UDO (shown on page 1 of this application)		
Office Use Only			
<input checked="" type="checkbox"/> ZTA Fees: \$250 N/A		Total Fee Calculation:	
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application Received By:			Date: 5/16/2012
Application completeness approved by:			Date: 6/16/2012
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board: 6/5/2012	<input checked="" type="checkbox"/> BOC: 6/18/2012	