**REQUEST FOR BOARD ACTION**

**ITEM NO.** 14.

**DATE OF MEETING:** October 15, 2012

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

**SHORT TITLE:** Public Hearing and Resolution Authorizing Amending the Pender County Unified Development Ordinance, Sections 1.11.2 and 8.3.2.C-E.

**BACKGROUND:** The presented text amendment proposes a prescribed extension for previously approved master plans governed under the Zoning Ordinance in effect from 1988 to July 2010. Additionally, the proposed amendment clarifies language concerning reviewing parking lot landscaping standards for non-residential projects. The specific request consists of amending Sections 1.11.2 and 8.3.2.C-E. The 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 1.11.2 and 8.3.2.C-E.

**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** by the Pender County Board of Commissioners that:

on October 15, 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: _____

_____ 10-15-2012
George R. Brown, Chairman Date

_____ 10-15-2012
ATTEST DATE
Delivered

**PLANNING STAFF REPORT**
**Zoning Text Amendment**

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**SUMMARY:**

**Hearing Date:** Planning Board – October 2, 2012
Board of County Commissioners – October 15, 2012
**Applicant:** Administrator, Division of Planning
**Application Number:** ZTA 10774 Pender County

**Text Amendment Proposal:** The request consists of amending Sections 1.11.2 and 8.3.2.C-E within the Pender County Unified Development Ordinance.

**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:** On October 2, 2012, the Pender County Planning Board voted unanimously in favor of passing a motion to recommend approval of the aforementioned text amendment request.

**Administrator Recommendation:** Administrator respectfully recommends **amending** the Unified Development Ordinance as described in the staff report:

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The following outline describes the proposed amendments by topic. The amendment proposes a prescribed extension for previously approved master plans and clarifies existing language regarding parking lot landscaping requirements. 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.

Master Plan Approval Extension

A request for a project extension for an approved master plan governed by the Zoning Ordinance (governance for projects approved up to June, 2010) was submitted to the Planning & Community Development office. The current provisions within neither the Unified Development Ordinance (UDO) or the Zoning Ordinance provides for another level of project approval extensions. The request was brought to the Planning Board for their review at their September 11, 2012 work session in which direction was given to staff to prepare an amendment to the UDO for review and consideration.

The language developed by staff addresses previously approved master plans that have a current approval status and were approved prior to the adoption of the UDO (June, 2010). These projects must have encompassed more than 350 acres and have an approved master plan within the Planned Development District. This criterion is aimed at larger, more complex projects.

Also, objective criteria in which the Administrator may provide for the extension has been established for an applicant to provide burden of proof that they are moving forward with permitting through a local, state, or federal permitting agency. Currently there are five (5) projects meeting the prescribed criteria that could potentially utilize the proposed extension process, they are included in the following table:

| Project Name | Acres Approved |
|---|---|
| East Haven | 1848 |
| The Preserve (Bayberry) | 712 |
| Hawksbill Cove | 413 |
| Moores Landing | 362 |
| Lane's Ferry | 963 |

Interior Parking Lot Landscaping

Staff is proposing a revision to the existing standards outlined in Section 8.3.2, Interior Parking Areas concerning required interior parking lot landscaping. The proposed amendment revises existing language for clarity purposes without proposing any new language.

**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 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: Millette Seconded: Edens

Approved: X Denied: Unanimous: X

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

## 1.11 TRANSITIONAL PROVISIONS

### 1.11.1 Construction in Progress

The adoption of this Ordinance does not require a change in the plans, construction, or designated use of any structure for which actual construction was lawfully begun before the effective date of this Ordinance on which actual construction has been diligently pursued. For the purpose of this provision, "actual construction" includes the erection of construction materials in permanent position and fastened in a permanent manner; and demolition, elimination, and removal of an existing structure in connection with such construction, provided that actual construction work must be diligently pursued until completion of the structure.

### 1.11.2 Approvals Granted Before Effective Date

Building permits, variances, special use permits, subdivision plans, site plan approvals, and other similar development approvals that are valid the day before the effective date of this Ordinance will remain valid until their expiration date. Development may be completed in accordance with such approvals even if such building, development or structure does not fully comply with provisions of this Ordinance. If building is not commenced and diligently pursued in the time allowed under the original approval or any extension granted, then the building, development or structure must meet the standards of this Ordinance in effect at the time of re-application.

A. Projects which are currently valid under the provisions of the previously approved development ordinance(s) may be eligible for one extension for a period of time not to exceed twelve (12) months. The extension request shall be submitted to the Administrator within ten (10) calendar days of expiration of the original approval time frame.

1) The following criteria must be met prior to the consideration of an extension under the provisions of this Ordinance:
   a) The project must be classified within the PD, Planned Development District as shown on the Pender County Zoning Map at time of original approval.
   b) The project must have a valid, approved Master Plan and/or Preliminary Plat.
   c) The overall project area must contain at least 350 acres.
2) Projects meeting the standards outlined in 1.11.2 A.1 must submit the following items for the Administrator's review and approval. The Administrator may have up to 10 business days to provide comment and/or disposition:
   a) Proof of complete permitting application and fees paid to a local, state, or federal permitting agency
   b) Narrative explaining the request, adequately demonstrating that a good faith effort has been made to comply with the original time allotment, including an outline of steps to be taken for project advancement within the time expansion.

### 1.11.3 Applications in Progress before Effective Date

Applications for building permits, variances, special use permits and other similar development approvals that were submitted in complete form and are pending approval before the effective date of this Ordinance must be reviewed wholly under the terms of the previous Ordinance. Any re-application for an expired approval must meet the standards of this Ordinance in effect at the time of re-application.

### 1.11.4 Violations Continue

Violations of the previous Ordinances will continue to be a violation under this Ordinance and be subject to penalties and enforcement under Article 12. The adoption of this Ordinance does not affect nor prevent any pending or future action to abate violations of previous Ordinances.

### 1.11.5 Nonconformities

Nonconformities under the previous Ordinance may continue under this Ordinance, as defined in Article 11.

### 8.3.2 Interior Parking Areas

C. Single row terminal landscape island requirements ~~Each single-row terminal landscape island shall contain at least one (1) canopy tree.~~

1) Single row parking terminals cannot extend more than ten (10) contiguous parking spaces or more than one-hundred and twenty (120) feet, whichever is more restrictive. ~~More than ten (10) contiguous parking spaces or extend more than one-hundred and twenty (120) feet, whichever is more restrictive.~~
2) Each terminal island must include ~~One single-row terminal landscape island, with~~ a minimum pervious area of three hundred (300) square feet ~~and~~ with a minimum width of twelve (12) feet. ~~shall be provided at each end of a single-row parking bay.~~
3) Each single row terminal landscape island shall contain at least one (1) canopy tree.
4) Required maximum two (2) foot high screening shrubs shall be utilized the entire length of the landscape island, or as limited by sight distances.

D. Double row terminal landscape island requirements ~~A double-row parking bay with head-to-head parking shall not contain more than twenty (20) contiguous parking spaces in a 2 rows x 10 spaces configuration or extend more than one-hundred and twenty (120) feet, whichever is more restrictive.~~

1) Double row parking terminals ~~bay~~ with head-to-head parking ~~shall not contain~~ cannot extend more than twenty (20) contiguous parking spaces, ten spaces by two rows (10 x 2), or extend more than one-hundred and twenty (120) feet, whichever is more restrictive.
2) Each terminal island must include ~~One double-row terminal landscape island, with~~ a minimum pervious area of six hundred (600) square feet and a minimum width of twelve (12) feet. ~~shall be provided at each end of a double-row parking bay.~~
3) Each double-row terminal landscape island shall contain at least two (2) canopy trees.
4) Required maximum two (2) foot high screening shrubs shall be utilized the entire length of the landscape island, or as limited by sight distances.

E. Intermediate landscape islands requirements ~~Intermediate landscape islands shall be provided for any parking lot with eighty (80) or more parking spaces, and an additional intermediate landscape island shall be provided for every additional twenty (20) parking spaces in excess of eighty (80).~~

1) Intermediate landscape islands shall be provided for any parking lot with eighty (80) or more parking spaces. Additional intermediate landscape islands shall be provided for every additional twenty (20) parking spaces in excess of eighty (80).
2) Each intermediate landscape island shall have a minimum pervious area of three hundred (300) square feet and a minimum width of twelve (12) feet, and
3) Each intermediate landscape island shall contain at least one (1) canopy tree.