



REQUEST FOR BOARD ACTION

ITEM NO. 22.

DATE OF MEETING: August 19, 2013

REQUESTED BY: Ashley Frank, Senior Planner, Planning & Community Development Department

SHORT TITLE: Resolution to Amend the Pender County Unified Development Ordinance, Section 5.3.3. Table of Permitted Uses by Adding and Modifying NAICS Uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural Zoning Districts; the Amendment will Modify Section 5.3.6, Adding Use Standards to Sewer Treatment Facilities to be Located within the RM and PD Zoning Districts.

BACKGROUND: The proposed amendments clarify recent issues that have been brought to staff's attention regarding allowable uses within the Table of Permitted Uses. Detailed information of all the changes is included in the informational packet which has been distributed to accompany this report.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a resolution to amend the Pender County Unified Development Ordinance, Section 5.3.3. Table of Permitted Uses by Adding and Modifying NAICS Uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural Zoning Districts; the Amendment will Modify Section 5.3.6, Adding Use Standards to Sewer Treatment Facilities to be Located within the RM and PD Zoning Districts.

RESOLUTION

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

on August 19, 2013 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 ___ McCoy ___ Tate ___ Ward ___ Williams ___

George R. Brown, Chairman

08/19/2013
Date

ATTEST
Delivered

08/19/2013
DATE

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – August 6, 2013
Board of County Commissioners – August 19, 2013

Applicant: Administrator, Division of Planning
Application Number: ZTA 10995 Pender County

Text Amendment Proposal: The request consists of amending to the Pender County Unified Development Ordinance, specifically amending Section 5.2.3. Table of Permitted Uses by adding and modifying NAICS uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural zoning districts; the amendment will modify Section 5.3.6, adding use standards to Sewer Treatment Facilities to be located within the RM and PD zoning districts.

Background: The following text amendment is the result of various administrative discussions and situational circumstances that have been brought to Staff's attention since the effective date of the Pender County Unified Development Ordinance.

Administrator/Planning Board Recommendation: Administrator respectfully recommends **amending** the Unified Development Ordinance as described in the staff report. The Planning Board, at their August 6, 2013 regular meeting voted 5-1 to recommend approval of the proposed text amendment.

The following outline describes the proposed amendments by topic. The proposed amendments clarify recent issues that have been brought to staff's attention regarding allowable uses within the Table of Permitted Uses. Detailed information of all the changes is included in the informational packet which has been distributed to accompany this report.

Table of Permitted Uses 5.2.3

NAICS 221320 Sewer Treatment Facilities (Attachment 1)

Staff has been approached as to the use of sewage treatment facilities within the RM, Residential Mixed zoning district. Sewage treatment facilities are defined as: *Any device or system used in the storage, treatment, disposal or reclamation of sewage and industrial wastes generated by more than two uses or dwellings.* Currently this use is not permitted within the RM district.

The RM, Residential Mixed zoning district is outlined in section 4.7.3 of the Pender County UDO as a district designed to allow for a variety of conventional built and multifamily housing types which can be accommodated dependent on necessary infrastructure including but not limited to community or regional utilities and infrastructure. A variety of housing types as referenced within the Table of Permitted Uses shall be allowable, however only one housing type is required for development. The type of development should be compatible with surrounding land uses and consistent with the goals

and policies of the Comprehensive Land Use Plan. The density development standards shall be calculated similar to the Planned Development (PD) District. The PD District currently allows the use of a sewage treatment facility with the approval of a Master Development Plan (MDP). As Pender County has no other form of wastewater treatment the use of a sewage treatment facility would be required to achieve densities described in the RM district.

In order to protect adjacent land uses, design standards have been applied to both the RM and PD Districts. The standards will allow the sewer treatment facility to be approved with the MDP for both the RM and PD districts; however will require a Special Use Permit for sewer treatment facilities not located within the boundary of the Master Development Plan.

NAICS 713940 Fitness and Recreational Sports Centers (Attachment 2)

Fitness and recreational sports centers comprised of establishments primarily engaged in operating fitness and recreational sports. These facilities feature exercise and other active physical fitness conditioning or recreational sports activities such as; swimming, skating, or racquet sports as described in the North American Industry Classification System (NAICS).

Staff is recommending adding uses that fall within the classification of NAICS 713940 by Special Use Permit in the RA, Rural Agricultural zoning district. After reviewing the types of uses that fall into this category, the uses may be appropriate within the RA district depending on locational criteria. These types of uses include:

Aerobic dance and exercise centers, athletic club facilities, body building studios, dance centers, aerobic centers, exercise centers, fitness centers, fitness salons, fitness spas without accommodations, gymnasiums, handball club facilities, health club facilities, health spas without accommodations, health studios, ice skating rinks, physical fitness centers, physical fitness facilities, physical fitness studios, racquetball club facilities, recreational sports club facilities, rinks, ice or roller skating, roller skating rinks, spas without accommodations, sports club facilities, squash club facilities, strength development centers, swimming pools, tennis club facilities, tennis courts, wave pools, and weight training centers.

The uses listed above are similar in intensity to the uses which fall under NAICS 713990, which are currently allowed by Special Use Permit in the RA zoning district. By allowing uses under NAICS 713940 to be permitted by Special Use Permit, site-specific proposals may be presented. This allows for specific concerns to be addressed or additional conditions be placed on the proposed use.

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 and the specific intent of this Ordinance.

Comprehensive Land Use Plan Compliance:

The following goals and policies within the Pender County Comprehensive Land Use Plan may be relevant to the proposed Zoning Text Amendment request:

Policy 1A.1.4 The County should develop and utilize innovative and flexible land planning techniques that encourage developments to efficiently use land resources that result in more compact urban areas, infill development, redevelopment, and the adaptive re-use of existing buildings.

Policy 1A1.5 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.

Policy 2A.1.2 Allow the use of package treatment plants only in areas where development is desirable but public sewer service is not feasible. If package treatment plants are use they should be designed to enable, at minimum public cost, the conversion of the system to public ownership, operation and maintenance in the future when public sewer service is viable, and cost effective

Policy 3A1.2 Use the creation of the Unified Development Ordinance (UDO) as an opportunity to allow more development flexibility while setting higher standards for sustainable development.

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

Staff Recommendation:

The proposed text amendment is consistent with the Unified Development Ordinance and Comprehensive Land Use Plan. Therefore, staff is recommending approval of the amendments as presented.

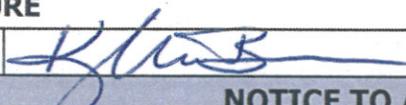
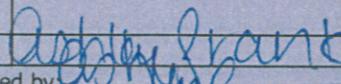
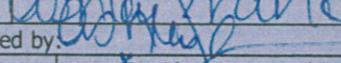
Planning Board

Motion: McClammy **Seconded:** Williams

Approved: X **Denied:** **Unanimous**

Boney: N Marshburn: Y Baker: Y Edens: Y McClammy: Y Nalee: Williams: Y

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA Case # 10995	Date	6.21.2013
Application Fee	\$ N/A	Receipt No.	N/A
Pre-Application Conference	4.17.2013	Hearing Date	PB August 6, 2013
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Pender County		
Applicant's Address:	805 South 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):			
<small>The proposal consists of amending Section 5.3.3. Table of Permitted Uses by adding and modifying NAICS uses 221320 and 713940 within the RM, Residential Mixed, PD, Planned Development, and RA, Rural Agricultural zoning districts; the amendment will also modify Section 7.10, Off-Street Parking and Loading/Parking Requirements by adding a Parking Study option; the amendment will modify Section 5.3.6, adding use standards to Sewer Treatment Facilities to be located within the RM and PD zoning districts.</small>			
Proposed Text to be added:			
See Attachment			
SECTION 3: SIGNATURE			
Applicant's Signature			Date: 6/21/2013
NOTICE TO APPLICANT			
<small>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.</small>			
TEXT AMENDMENT CHECKLIST			
<input checked="" type="checkbox"/>	Signed application form		
<input type="checkbox"/>	Application fee	N/A	
<input 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 type="checkbox"/> ZTA Fees: \$250		Total Fee Calculation:	
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input checked="" type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application Received By:			Date: 6.21.2013
Application completeness approved by:			Date: 6.21.2013
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board:	<input checked="" type="checkbox"/> BOC:	

Print Form

Attachment 1**5.2.3 Table of Permitted Uses**

TABLE OF PERMITTED USES											
P=Permitted Use D=Permitted w/ Use Standards S=Special Use Approval Required SD=Special Use Approval Required w/ Additional Standards PM=Permitted in conjunction w/ the MDP process											
Use Category Specific Use Type		Residential		Mixed Use	Commercial	Industrial			Special Purpose		
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Use Type	Ref NAICS	Zoning Districts									
Sector 22: UTILITIES											
Fossil Fuel Electric Power Generation	221112										S
Other Electric Power Generation	221119	S	S			S			P	P	
Electric Bulk Power Transmission & Control	221121	S	S	S	S	S	S	S	P	P	
Natural Gas Distribution Except Transmission Lines	221210									P	
Water Supply Facilities*	221310		S			PM				P	
Sewage Treatment Facilities*	221320		S	PMD/S		PMD/S				P	
*County Owned or County Service District Provided Systems=P											

5.3.6 Sewage Treatment Facilities (Sector 22 Utilities)

- A. Sewage Treatment Facilities approved in conjunction with a Master Development Plan (MDP)
 - 1. Sewage Treatment Facilities may be approved in conjunction with a Master Development Plan if:
 - a. The sewage treatment facility will only provide service within the boundary of the approved (MDP).
 - i. The sewage treatment facility must be completed within phase one (1) of the development.
 - 2. Any changes to a Sewage Treatment Facility approved in conjunction with a MDP will require Administrator evaluation; changes to the facility include but are not limited to; enlarging footprint or building size, increase in capacity, or increase in area to be serviced.
 - 3. If the Sewage Treatment Facility services are expanded to areas outside of the MDP boundary, the facility shall be required to obtain a Special Use Permit (SUP) for modifications to the facility.
- B. Sewage Treatment Facilities not associated with an approved MDP:
 - 1. Sewage Treatment Facilities not associated with a MDP shall be required to obtain a Special Use Permit (SUP) for the facility.

Attachment 2

5.2.3 Table of Permitted Uses

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Sector 71: ARTS, ENTERTAINMENT, AND RECREATION											
Performing Arts Companies	7111	S				P	P				
Spectator Sports	7112	S					P		P		
Promoters of Performing Arts, Sports and Similar Events	7113	S				S	S				
Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	7114					P	P	P			
Museums, Historical Sites and Similar Institutions	712	S				P	P	P			
Amusement and Theme Parks	713110	S				S	S				
Amusement Arcades	713120						P				
Golf Courses and Country Clubs	713910	S	PM			P					
Fitness & Recreational Sports Centers	713940	S				P	P	P	P		
Bowling Centers	71395					P	P	P	P		
All Other Amusement & Recreation Industries	71399	S				P	P		P		
Aviation Clubs, Recreational	713990	S	S			P	P		P		
Canoeing, Recreational	713990	S	S			P	P		P		
Fishing Clubs, Recreational	713990	S	S			P	P		P		
Flying Clubs, Recreational	713990	S	S			P	P		P		
Guide Services (i.e. Fishing, Hunting, Tourist)	713990	S	S			P	P		P		
Horse Riding, Recreational	713990	P	S								
Outdoor Shooting Ranges	713990	S									