



## REQUEST FOR BOARD ACTION

ITEM NO. 30.

**DATE OF MEETING:** October 21, 2013

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

**SHORT TITLE:** Resolution to Amend the Pender County Unified Development Ordinance, Section 3.5.2.D, addressing the waiver criteria for Master Development Plan requirements in the Commercial and Industrial Districts; Section 5.2.3, Table of Permitted Uses by adding the use of an Industrial Park to the General Industrial (GI) zoning district; Section 5.3.11, adding use standards to Industrial Parks located within the GI District, and adding a definition of an Industrial Park to Appendix A.

**BACKGROUND:** The proposed amendments clarify recent issues that have been brought to staff's attention regarding the approval and subdivision procedures for Industrial Parks as well as ordinance regulations governing individual sites. 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.

**RESOLUTION**

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

on October 21, 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

10/21/2013  
Date

\_\_\_\_\_  
ATTEST

10/21/2013  
DATE

## PLANNING STAFF REPORT

### Zoning Text Amendment

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#### SUMMARY:

**Hearing Date:** Planning Board – October 15, 2013  
Board of County Commissioners – October 21, 2013

**Applicant:** Administrator, Division of Planning

**Application Number:** ZTA 11028 Pender County

**Text Amendment Proposal:** Resolution to Amend the Pender County Unified Development Ordinance, Section 3.5.2.D, addressing the waiver criteria for Master Development Plan requirements in the Commercial and Industrial Districts; Section 5.2.3, Table of Permitted Uses by adding the use of an Industrial Park to the General Industrial (GI) zoning district; Section 5.3.11, adding use standards to Industrial Parks located within the GI District, and adding a definition of an Industrial Park to Appendix A.

**Background:** The proposed amendments clarify recent issues that have been brought to staff's attention regarding the approval and subdivision procedures for Industrial Parks, as well as ordinance regulations governing individual sites located within approved Industrial Parks.

**Administrator/Planning Board Recommendation:** On September 15, 2013 the Planning Board recommended approval of the aforementioned Text Amendment; therefore the Administrator respectfully recommends **amending** the Unified Development Ordinance as described in the staff report and attachments.

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#### **Amendment Outline:**

The following outline describes the proposed amendments by topic. The proposed amendments clarify recent issues that have been brought to staff's attention regarding the approval and subdivision procedures for Industrial Parks as well as ordinance regulations governing individual sites located within Industrial Parks.

### **3.5 Master Development Plans**

#### *3.5.2.D Waivers to the Master Development Plan (Attachment 1)*

Due to the requirement that an Industrial Park must obtain and comply with site specific conditions of a Special Use Permit (SUP), it's recommended that the Master Development Plan process be waived and that a preliminary plan be submitted to the Administrator for review. There are specific conditions to be eligible for an Industrial Park which are outlined in the attachments supporting this report (Section 3.5.2.D).

### **Table of Permitted Uses 5.2.3**

#### *Miscellaneous Uses (Attachment 2)*

In order to develop design standards for Industrial Parks, they must be their own specified use within the Table of Permitted Uses. It is recommended that an Industrial Park be allowed in the GI, General

Industrial zoning district with an approved Special Use Permit obtained by the Pender County Board of Commissioners.

The GI, General Industrial zoning district is outlined in section 4.10.2 of the Pender County UDO and is defined as a district intended to provide locations for enterprises engaged in a broad range of manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembly of goods, merchandise or equipment which may not be compatible with certain Industrial Transitional uses. These uses generally are more intense and are located on larger tracts.

Currently, there are two additional standards within the GI district (Section 4.2.10.A):

A. Development Standards / Applicability

1. Additional building height is allowed at a rate of one additional foot of height for every one foot of additional yard depth (front and sides).
2. Complete fencing with vegetative screening if the abutting land is in a residential district. The fence shall be a minimum of 6 feet.

The design standards provided within Attachment 2 accompanying this report are broken down in terms of review procedures, subdivision/park requirements, and individual site design standards for uses within an approved Industrial Park. The intention of providing these specific standards is to address unique circumstances that this type of development may have in relation to other development types throughout the county.

## **Appendix A**

### *Definitions (Attachment 3)*

Industrial Park is not defined in the Pender County UDO; this amendment would include a definition of Industrial Park.

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### **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.

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**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:

**Growth Management Goal 1A.1**

Manage the physical growth and development of Pender County by promoting more intensive land uses in key locations identified for such growth while preserving and protecting the unique physical character and social assets of the predominant rural lifestyle and coastal environment that makes the County a unique place to live.

**Policy 1A.1.2** Encourage development in areas where the necessary infrastructure – roads, water, sewer, and schools - are available, planned or can be most cost effectively provided and extended to serve existing and future development.

**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.

**Policy 10A.1.3:** Provide water and sewer infrastructure on a priority basis to locations suitable for industrial and business development.

**Policy 10A.1.2:** Commit County resources to improve and expand efforts to retain and recruit industries. Place emphasis on re-use of vacant buildings, recruitment of clean industries, and creation of jobs. (Clean industries are generally defined as sustainable businesses that participate in environmentally-friendly activities to ensure that all processes, products, and manufacturing activities adequately address environmental concerns.)

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**Administrator/Planning Board Recommendation:** The proposed text amendment is consistent with the Unified Development Ordinance and Comprehensive Land Use Plan. On September 15, 2013 the Planning Board recommended approval of the aforementioned Text Amendment; therefore the Administrator respectfully recommends **amending** the Unified Development Ordinance as described in the staff report and attachments.

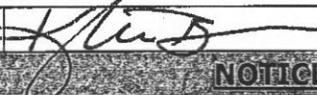
**Planning Board**

**Motion:** Williams **Seconded:** Edens

**Approved:** \_\_\_\_\_ **Denied:** \_\_\_\_\_ **Unanimous:** X

Boney: X Marshburn: - Baker: - Edens: X McClammy: X Nalee: X Williams: X

## APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA - 11028	Date	8.23.2013
Application Fee	\$ N/A	Receipt No.	N/A
Pre-Application Conference	N/A	Hearing Date	10.15.2013
<b>SECTION 1: APPLICANT INFORMATION</b>			
Applicant's Name:	Pender County Planning and Community Development		
Applicant's Address:	805 South Walker Street		
City, State, & Zip	Burgaw, NC 28425		
Phone Number:	910-259-1202		
<b>SECTION 2: UDO TEXT TO BE AMENDED</b>			
Current Text to be Amended (Please site accurate Article number referenced):			
The proposal consists of amending: Section 3.5.2.D, addressing the waiver criteria for Master Development Plan requirements in the Commercial and Industrial Districts; Section 5.2.3, Table of Permitted Uses by adding the use of an Industrial Park to the General Industrial (GI) zoning district; Section 5.3.11, adding use standards to Industrial Parks located within the GI District and adding a definition of an Industrial Park to Appendix A.			
Proposed Text to be added:			
A detailed description of each amendment is attached to this application packet.			
<b>SECTION 3: SIGNATURE</b>			
Applicant's Signature			Date: 8.23.2013
<b>NOTICE TO APPLICANT</b>			
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.			
<b>TEXT AMENDMENT CHECKLIST</b>			
<input checked="" type="checkbox"/>	Signed application form		
<input type="checkbox"/>	Application fee N/A - county		
<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)		
<b>Office Use Only</b>			
<input checked="" type="checkbox"/> ZTA Fee: \$250		N/A	
Payment Method:		Total Fee Calculation: N/A	
<input checked="" type="checkbox"/> Cash	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Check	
<input type="checkbox"/> MasterCard	<input checked="" type="checkbox"/> Visa	<input checked="" type="checkbox"/> Other	
Application Received by:			Date:
Application completeness approved by:			Date:
Dates Scheduled for Public Hearings:	Planning Board	10.15.13	BOC 10.21.13

## Attachment 1

### 3.5 MASTER DEVELOPMENT PLAN

#### 3.5.2. D Applicability

A Master Development Plan (MDP) shall be submitted to the Administrator for Planning Board approval prior to any subdivision or development of property in any of the following zoning district:

3.5.2.D. Waivers to MDP – Commercial & Industrial Districts: The Administrator may waive the requirement of a MDP in the Commercial and Industrial District: ~~if the proposed development contains all of the following criteria:~~

- 1) **If the proposed development contains all of the following criteria:**
  - a) If the proposed subdivision or development is less than 5 acres in size;
  - b) Includes no new streets, roads or rights-of-way, does not further extend any existing or dedicated street, road or rights-of-way and does not significantly change the layout of any existing or dedicated street, road or rights-of-way;
  - c) Is not an integral portion of a property proposed or planned for future development or subdivision;
  - d) That such development is limited to one individual parcel and one single use in accordance with Section 5.2.
- 2) **If the proposed development is located within an approved Industrial Park and meets the Design Standards as outlined in Section 5.3.11**

## Attachment 2

### 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	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>MISCELLANEOUS USES</b>											
	Adult and Sexually Oriented Businesses								S	S	
	Adult Retail								S	S	
	Bona fide Farm Purposes	D	D	D	D	D	D	D	D	D	D
	Child Care Center	P	S			S	P	P			
	Community Boating Facility	SD	SD	SD	SD	SD					
	Community Boating Facility in conjunction with a Master Development Plan	SD	PMD	PMD	PMD	PMD					
	Family Care Home	D	D	D	D	D					
	<b>Industrial Park</b>										<b>SD</b>
	Marina (Commercial)	S	PM			PM					
	Storage of Merchandise, Materials or Equipment On Site Inside or Outside An Enclosed Building, Excluding Salvage	S							P	P	
	Portable Storage Containers	D	D	D	D	D	D	D	D	D	

## 5.3 Uses with Standards

### 5.3.11 Miscellaneous Uses

#### E. Industrial Park:

1. **Applicability:** In order to qualify as an Industrial Park, the subject property must:
  - a. Be entirely located in a General Industrial zone, according to the official zoning map of Pender County;
  - b. Contain at least 200 acres under unified control;
  - c. Have direct access to a road designated by the NCDOT as a US, or NC Highway; or at least a portion of the property shall be within 5000' of such a road and have direct access to a state maintained road;
  - d. Be served, or have written confirmation from the Utility Authority that the area will be served, by a public water and sewer system; and
  - e. Obtain a Special Use Permit from the Board of County Commissioners.
2. **Subdivision Procedure:** Industrial Parks shall be exempt from the procedures established in Section 3.8, Subdivisions, Section 3.9, Minor Subdivision, and 3.10, Major Subdivision, of the Pender County UDO. The following regulations apply:
  - a. Major and minor subdivisions of an Industrial Park are subject to review by the Technical Review Committee, and are reviewed and approved by the UDO Administrator.
  - b. Plans must meet all the requirements prescribed in Section 6.4, Preliminary Plat Contents, and Section 6.5, Final Plat Contents in the Pender County UDO, except that subdivision plans for an Industrial Park shall be exempt from:
    - i. The timing and phasing requirements of Sections 6.5.A.1, 6.5.A.4, and 6.5.A.8;
    - ii. The homeowner's association requirements of Sections 6.5.B.3 and 6.5.B.6; and
    - iii. The preliminary plat requirements of Sections 6.4.A.9 through 6.4.A.13.
      1. Industrial Parks shall follow the subdivision standards listed in Section 5.3.11.E.3, Subdivision Standards, below.
      2. These standards must be met and shown on the Preliminary Plat.
  - c. A copy of the draft protective covenants to be recorded on the Park shall be submitted with the final plat application.
    - i. The covenants shall address: owner's association, organization, responsibilities & membership, use and other restrictions on the property, term, revisions & renewal of the covenants, nuisances on the property and maintenance of facilities in the park.
    - ii. The covenants as approved under the Special Use Permit shall be recorded prior to division or sale of any parcels and prior to issuance of any zoning permit for or within the Park.
  - d. The final plat shall be reviewed and approved or disapproved and notice of action taken provided to the applicant within 30 working days of completed submission. When the final plat is approved the signed original will be provided to the applicant and a signed copy placed in the Record File for the subdivision.

- e. A final plat shall be approved on a finding that the applicant demonstrates that the proposed division meets all of the requirements of the Pender County UDO and will:
  - i. Be in harmony with the Special Use Permit;
  - ii. Be in accordance with the Preliminary Plat;
  - iii. Not endanger the public health or safety;
  - iv. Be in conformity with the County's Land Use Plan.
- 3. **Subdivision Standards:** Industrial Parks shall be exempt from the regulations of Article 7.6, Open Space, and Article 8, Landscaping and Buffers. As an alternative, Industrial Parks are governed by the following open space and landscaping standards:
  - a. **Open Space:**
    - i. Approved Industrial Parks shall provide dedicated area(s) as open space, equating to 5% of the overall Industrial Park.
    - ii. The open space must be dedicated at the time in which at least 25% of the Industrial Park is occupied.
  - b. **Landscaping and Buffers:**
    - i. A visually opaque landscaped buffer of native vegetation at least 20 feet in width and/or combination of berms and fencing is required along the external perimeter of the Industrial Park.
      - 1. Existing trees and shrubs shall count towards meeting the buffer yard and screening requirements.
      - 2. The buffer areas may be in common area and counted towards meeting open space requirements.
      - 3. For every 1,000 sf. of buffer area, the buffer areas shall include:
        - a. Ten evergreen shrubs; and
        - b. Three trees, which shall consist of the following:
          - i. 50% large maturing;
          - ii. 25% small maturing, and
          - iii. 25% evergreen.
    - ii. Buffers will not be required for internal property boundaries of Industrial Parks with the exception of road frontage.
    - iii. The Administrator may allow modification to the buffer width and planting types when special site conditions exist.
- 4. **Major Site Plan Procedure:** Individual Sites locating within an Industrial Park shall be exempt from Section 3.7, Major Site Development Plan, of the Pender County UDO. The following procedure applies:
  - a. Major Development Plans are subject to review by the Technical Review Committee, and are reviewed and approved by the UDO Administrator.
  - b. Master Development Plans shall meet all of the requirements of Section 6.1.3 Major Development Plans Contents – Commercial and Industrial Districts, with the exception of Section 6.1.3.A.10.
    - i. The Major Development Plan shall meet the Landscaping and Buffer requirements set forth below in Section 5.3.11.E.6.e, Landscaping and Buffers.

- ii. The Major Development Plan shall be complete at the time of submittal and must be made by a licensed professional and illustrated at sufficient scale and with detailed design for the all uses located within the industrial park.
  - c. Major Development Plans shall be reviewed and approved or disapproved and notice of action taken provided to the applicant within 30 working days of completed submission.
5. **Site Dimensional Standards:** Individual Sites shall be exempt from the regulations of Section 4.14, Zoning District Dimensional Requirements of the Pender County UDO. The following site dimensional standards apply:

Dimensional Standards for Individual Sites in Industrial Parks	
Maximum Height	50 feet
Minimum Setbacks <sup>[1]</sup>	
Front <sup>[2]</sup>	50 feet
Rear <sup>[3]</sup>	25 feet
Side <sup>[3]</sup>	25 feet
Corner <sup>[4]</sup>	50 feet
Minimum Building Separation	North Carolina Building Code Regulations Apply
Minimum Lot Width	100 feet
<p>NOTES:</p> <p>[1] There must be an owner maintained strip with a minimum of 20 feet in width of landscaped ground along the street property lines, except that drives and walks may be located within the landscaped strip.</p> <p>[2] In the event more than one parcel of land shall be owned by one person or entity, and in the improvement of each parcel of land, a building shall be erected on more than one parcel of land, then the interior rear or side setbacks may be waived.</p> <p>[3] In the case of corner lots, both 50 foot front setbacks will apply.</p>	

6. **Site Design Standards:** Individual Sites shall be exempt from the regulations of Article 7, Design Standards, and Article 8, Landscaping and Buffers, of the Pender County UDO. Individual Sites shall meet the following site design standards:
- a. **Parking:**
    - i. Each Individual Site located within the approved Industrial Park shall provide three parking spaces for each four employees on the largest shift plus additional spaces for vehicles permanently used in the operation of the business.
      - 1. At the discretion of the Administrator, a reduction to the parking requirements may be approved if the applicant demonstrates the peak level of need is lower than these standards require.
      - 2. To justify the reduction, a statement shall be provided by a licensed professional addressing facility usage, employment figures, shift changes, and any other applicable standards.
  - b. **Loading:**
    - i. Off-street loading and unloading facilities shall be provided by each owner or lessee of any parcel of land within the Park when that parcel is developed;
    - ii. Such loading and unloading shall be to the rear or side of any buildings on said parcels of land.

- iii. All loading and unloading facilities shall be screened by effective landscaping or otherwise from view of any public street or access road within or leading to or from the Park.
- c. Outdoor Lighting:
  - i. Outdoor lighting shall utilize illumination so as to not cast direct light beyond any property line.
- d. Outdoor Storage and Screening:
  - i. Outdoor storage yards and storage areas, incinerators, storage tanks, and trucks based on the premises, shall either be housed in closed buildings or be screened for sound and sight from public view as is deemed necessary by the Administrator and shall be placed so as to conform with the setback requirements of Section 5.3.11.E.5, Site Dimensional Standards, above.
  - ii. Such screening shall include landscaping or permanent fences (excluding chain link), or approved solid materials and shall be located so as to most effectively screen the view of the offending items from the street.
  - iii. The Administrator may allow modification to the screening requirements when special site conditions exist.
- e. Landscaping Standards:
  - i. If applicable, Individual Sites must ensure that the 20 foot, visually opaque landscaped buffer required along the external perimeter of the Industrial Park is maintained, according to the requirements of Section 5.3.11.E.3.b, Landscaping and Buffers above.
  - ii. Buffers are not required for internal property boundaries of Industrial Parks with the exception of road frontage.

## Attachment 3

### Appendix A

**INDUSTRIAL PARK:** A development of land, used primarily for industrial and related uses, that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. Due to the process, manufacturing or employment base certain impacts that may be created in this park that would require, special design, buffer or setbacks. The development may include streets, circulation ways, utilities, buildings, open space, and other site features and improvements.