



## REQUEST FOR BOARD ACTION

ITEM NO. 29.

**DATE OF MEETING:** December 9, 2013

**REQUESTED BY:** Planning & Community Development

**SHORT TITLE:** Resolution to Amend the Pender County Unified Development Ordinance, Section 7.10.5; Section 8.1.2; and Section 4.14.

**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 effective date of the Pender County Unified Development Ordinance. The Ordinance Text Amendment would specifically modify Section 7.10.5, surface standards, by adding a provision to increase the flexibility in administering the surfacing standards for site(s) recognized by the National Register of Historic Places; Section 8.1.2, Applicability of the Landscaping and Buffering standards as they apply to site(s) recognized by the National Register of Historic Places and Section 4.14 Zoning District Dimensional Requirements, specifically amending the building separation setbacks for the GI, General Industrial and Industrial Transitional Districts.

**SPECIFIC ACTION REQUESTED:** To hold a public hearing and consider a resolution to amend Section 7.10.5; Section 8.1.2; and Section 4.14 of the Pender County Unified Development Ordinance.

**RESOLUTION**

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

on December 9, 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

12/9/2013  
Date

\_\_\_\_\_  
ATTEST  
Delivered

12/9/2013  
DATE

## PLANNING STAFF REPORT

### Zoning Text Amendment

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#### SUMMARY:

**Hearing Date:** Planning Board – December 3, 2013  
Board of County Commissioners – December 9, 2013

**Applicant:** Administrator, Division of Planning

**Application Number:** ZTA 11069 Pender County

**Text Amendment Proposal:** Resolution to amend the Pender County Unified Development: Section 7.10.5, specifically amending the surface standards by adding a provision to increase the flexibility in administering the surfacing standards for site(s) recognized by the National Register of Historic Places; Section 8.1.2, Applicability of the Landscaping and Buffering standards as they apply to site(s) recognized by the National Register of Historic Places and Section 4.14 Zoning District Dimensional Requirements, specifically amending the building separation setbacks for the GI, General Industrial and Industrial Transitional Districts.

**Background:** The proposed amendments will update the Pender County Unified Development Ordinance to reflect the new statutory guidelines. Detailed information is included in the informational packet which has been distributed to accompany this report.

**Administrator/Planning Board Recommendation:** On December 3, 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 Historical and Industrial Sites within Pender County. Detailed information of all the changes is included in the informational packet which has been distributed to accompany this report.

#### **7.10.5 Surfacing**

##### *Surfacing (Attachment 1)*

Through staff research and experience, it has been determined that the Unified Development Ordinance (UDO) does not currently include provisions to fully accommodate the various needs that may arise while reviewing historical sites.

As such, it is evident that, given the rural nature of many historical sites in Pender County, regardless of the nature of their particular operations (Residential, Commercial, etc.), may induce conflict(s) with the "Surfacing" standards of the UDO. In particular, historical sites, in keeping with the nature, purpose and intent of the site(s) heritage, may need to ensure that the rural integrity of the site(s) remains intact, further superseding the need to surface their parking to NCDOT's paving standards, based on the current zoning of the tract or district.

Consequently, staff is recommending that upon successful submission of National Register of Historic Places documentation, an applicant will qualify to exempt one's site(s) from the paving standards set forth in the Surfacing section of the UDO. The aforementioned flexibility is detailed further in Attachment 1.

### 8.1.2 Applicability

#### Applicability (Attachment 2)

Through staff research and experience, it has been determined that the Unified Development Ordinance (UDO) does not currently include standards to fully accommodate the various needs that may arise while reviewing historical sites. Specifically, it is necessary to create a means to preserve the heritage and/or nature of culturally significant sites where the introduction of inconsistent vegetation or materials may be inconsistent with the intended historical landscape.

As such, it is evident that, given the unique nature of many historical sites in Pender County, regardless of the nature of their particular operations (Residential, Commercial etc.), may induce conflict(s) with the "Landscaping and Buffering" standards of the UDO.

Consequently, upon successful submission of National Register of Historic Places documentation, an applicant will qualify to exempt one's site(s) from the standards set forth in the Landscaping and Buffering Article of the UDO. The aforementioned flexibility is detailed further in Attachment 2.

### 4.14 Zoning District Dimensional Requirements

#### Building Separation (Attachment 3)

The Pender County Board of County Commissioners recently amended the Pender County Unified Development Ordinance to allow structure (building) separation for Industrial Parks to be in harmony with the current NC Building Code. Currently the Pender County Unified Development Ordinance Section 4.14, Zoning District Dimensional Requirements outlines any new structure built that exceeds 1,200 square feet located within the GI, General Industrial and IT, Industrial Transition zoning districts would need to meet a minimum structure separation of 100' and 50' respectively. This would be for any new structure built that exceeds 1,200 square feet in area. After further review, in order to allow for more consist design of structures located within the GI, General Industrial and IT, Industrial Transition zoning districts; amending Section 4.14 to allow all structures with in the aforementioned zoning districts to meet the NC Building Code structure separation. This could allow for strategic placement of structures relative to a site's specific operation along with more uniform design within the GI and IT zoning districts.

**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:

**Historic and Cultural Resources Protection Goal 6B.1**

Ensure that historic and cultural resources are maintained or enhanced as development occurs.

**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 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.

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**VOTING AND RESOLUTION:**

Motion: McClammy Seconded Williams

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

Boney: X Marshburn: X Baker: X Edens: X McClammy: X Nalee: \_\_\_\_\_  
Williams: X

## APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 11069	Date	10.18.2013
Application Fee	\$ N/A	Receipt No.	N/A
Pre-Application Conference	N/A	Hearing Date	12-3-13

### SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Administrator
Applicant's Address:	805 S. Walker Street 28425
City, State, & Zip	Burgaw, NC
Phone Number:	(910)259-1276

### SECTION 2: UDO TEXT TO BE AMENDED

Current Text to be Amended (Please site accurate Article number referenced):

The proposal consists of amending: Section 7.10.5, specifically amending the surface standards by adding a provision to increase the flexibility in administering the surfacing standards for site(s) recognized by the National Register of Historic Places;

Section 8.1.2, Applicability of the Landscaping and Buffering standards as they apply to site(s) recognized by the National Register of Historic Places

Proposed Text to be added:

Please see attached documents

### SECTION 3: SIGNATURE

Applicant's Signature	Ashley Frank per KB	Date:	10.18.13
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### 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
n/a	<input type="checkbox"/>	Application fee
✓	<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 checked="" type="checkbox"/> ZTA Fees: \$250		<b>Total Fee Calculation:</b>	
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:
Application completeness approved by:			Date:
Dates Scheduled for Public Hearings:	<input type="checkbox"/> Planning Board:	<input type="checkbox"/> BOC:	

**Attachment 1****7.10.5 Surfacing**

- A. Non-Residential Uses in the RA District
1. All required off-street parking spaces shall be covered with an all-weather surface designed to support anticipated loads. Loose material surfaces shall be contained with a permanent edging. The surface shall be maintained so that traffic may move safely in and out of the parking area. Parking blocks that help designate individual parking spaces and keep vehicles within the surfaced area shall be required in lots with greater than 10 parking spaces.
- B. Non-Residential Uses in all other Zoning Districts
1. Required Parking Spaces - All required off-street parking spaces shall be sealed by an appropriate licensed professional and paved in accordance with NCDOT base course and pavement surface standards as prescribed by the "Secondary Road Manual".
  2. Historic Preservation - Site(s) recognized by the National Register of Historic Places (NHRP) may be exempted from the surfacing requirements of the Unified Development Ordinance (UDO).
    - a. Developments attempting to qualify for the Historic Preservation exemption must provide a copy of the National Parks Service listing, along with a narrative briefly requesting the aforementioned relief and how the surfacing standards would conflict with the historic significance of the property.
    - b. A site plan shall be provided designating a parking area meeting the minimum parking and access requirements of the UDO.
    - c. The Administrator must determine that the relaxation of standards will be consistent with the promotion of the health, safety, and general welfare of the residents of Pender County.
- C. Parking spaces provided in excess of the minimum required shall be constructed to use low impact design of excess parking facilities. Additional low impact design may be provided, if not otherwise prohibited by other provisions of the UDO, in the following areas:
1. Adjacent to parking lot landscape islands to allow for the percolation of water and the exchange of oxygen for the tree roots.
  2. Grass paving or turf block areas may be utilized in low impact areas or infrequent use areas such as churches or the outlying parking areas of malls or other shopping areas.

## Attachment 2

### 8.1.2 Applicability

The landscaping and buffering requirements found in this Article shall apply to all development within Pender County with the exception of bona fide farming activities, properties listed on the **National Register of Historic Places (NRHP)** and residential development of one housing type in the Residential Performance Districts. Developments attempting to qualify for the National Register of Historic Places exemption must provide a copy of the National Parks Service listing, along with a narrative briefly requesting the aforementioned relief and how the landscaping standards would conflict with the historic significance of the property. Landscaping and buffer requirements shall apply in all business, planned development, industrial, and non-residential uses in other zoning districts when:

- A. A new principal structure is built, or
- B. An existing principal structure is expanded sufficiently to increase its interior square footage by fifty percent (50%) or more, in any one or more expansions or
- C. A change in use from residential related to office, service, commercial or industrial, or from office, service or commercial to industrial or
- D. In any residential development with two or more types of housing development.

**Attachment 3****4.14 ZONING DISTRICT DIMENSIONAL REQUIREMENTS**

Dimensional Requirements Table

Dimensional Standards <sup>(9)</sup>	RA	RP	RM	MH	GB	OI	IT	GI	PD	EC
Lot Size	1 Acre <sup>(8)</sup>	15,000 <sup>(5)</sup> Sq. Ft.	(1)	(7)	15,000 Sq. Ft. <sup>(8)</sup>	15,000 Sq. Ft.	1 Acre	1 Acre	(1)	1 Acre
Lot Size Duplex	60,000 Sq. Ft.	22,000 Sq. Ft.	(1)						(1)	
Min. Area Rezoning(3)	NA	5 Acres	10 Acres	5 Acres	1 Acre	1 Acre	5 Acres	5 Acres	100 acres	NA
Min. Lot Width-Ft	100 <sup>(8)</sup>	80 <sup>(6)</sup>	(1)	(7)	80 <sup>(8)</sup>	80	100	100	(1)	100
Min. Chord Length at ROW line for "cul de sac's"	45	30	(1)	20	30	30	45	45	(1)	45
Min. Front Yd.-Ft.	30 <sup>(8)</sup>	30	(1)	(7)	25 <sup>(8)</sup>	25	40	50	(1)	50
Min. Side Yard-Ft	15 <sup>(8)</sup>	10	(1)	(7)	10 <sup>(8)</sup>	10	25	25	(1)	25
Min. Corner Yard Ft (10)	15	15	(1)	(7)	12	12	20	25	(1)	25
Min. Rear Yard-Ft	30 <sup>(8)</sup>	25	(1)	(7)	10 <sup>(8)</sup>	10	25	25	(1)	25
Max. Height-Ft	35 <sup>(2)</sup>	35 <sup>(2)</sup>	45	35	40	40	50	50	(1)	40
Min. Req. Structure Separation	40 <sup>(8)</sup>	30	(1)		50 <sup>(8)</sup>	50	50 <b>(11)</b>	100 <b>(11)</b>	(1)	30

(1) Dimensional standards in the Planned Development (PD) and Residential Mixed (RM) Districts are required to be specified on a Master Development Plan.

(2) Maximum Height requirements in the RA and RP Zoning District shall be allowed an additional 10' feet if located within any Special Flood Hazard Area (SFHA) at the calculation of 5 additional feet in building height per every 2 feet built above the prescribed Base Flood Elevation (BFE) up to a maximum of forty five (45') feet.

(3) Any parcel of property meeting the guidelines set forth in Sections 3.3 or 3.4 that adjoins an established zoning district that is identical to the district that is applying for a rezoning shall not have to meet the minimum area requirements for rezoning for that district.

(4) The minimum required separation standards are for principal or primary structures, accessory structures must follow separation and setback requirements as outlined in Sections 4.6.3 and 5.3.3.A.

(5) Minimum lot sizes in the RP zoning district may be reduced to 12,000 square feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.

(6) Minimum lot width in the RP zoning district may be reduced to sixty (60') feet with the evidence of public utilities (water and sewer) availability and connection is demonstrated.

(7) Dimensional requirements for a Manufactured Home District may be found in Section 5.3.2.D, Manufactured Home Community.

- (8) Dimensional requirements for a Recreational Vehicle Park may be found in Section 5.3.9.B, Recreational Vehicle Park.
- (9) Variations to Dimensional Standards are allowed for projects meeting LID Project Criteria, as overviewed in Section 7.14, Low Impact Development.
- (10) See Figure 4.1
- (11) North Carolina Building Code Regulations apply.**