



REQUEST FOR BOARD ACTION

ITEM NO. 18.

DATE OF MEETING: February 18, 2014

REQUESTED BY: Megan O'Hare, Planner I, Planning & Community Development

SHORT TITLE: Resolution to amend the Pender County Unified Development Ordinance, creating an Appendix E titled *Conditional Rezoning Districts*; as well as administrative updates to references throughout the document associated with Conditional Zoning Districts.

BACKGROUND: The proposed amendments to the Pender County Unified Development Ordinance will specifically address approved Conditional Rezoning Districts. Conditionally rezoned parcels will be cataloged in Appendix E, allowing for increased clarity and information regarding specific conditions associated with each conditionally rezoned property in Pender County. Detailed information is included in the packet to accompany this report.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a resolution to create an Appendix E titled *Conditional Rezoning Districts* in the Pender County Unified Development Ordinance; as well as administrative updates to references throughout the document associated with Conditional Zoning Districts.

RESOLUTION

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

on February 18, 2014 the Pender County Board of Commissioners (approved, modified, denied) a Zoning Map 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: Williams ___ McCoy ___ Brown ___ Tate ___ Ward ___

J. David Williams Jr., Chairman

2/18/2014
Date

ATTEST
Delivered

2/18/2014
DATE

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – February 4, 2014
Board of County Commissioners – February 18, 2014

Applicant: Administrator, Division of Planning

Application Number: ZTA 11114 Pender County

Text Amendment Proposal: Resolution to Amend the Pender County Unified Development Ordinance, to create Appendix E titled *Conditional Rezoning Districts*; as well as administrative update references throughout the document associated with Conditional Zoning Districts.

Background: The proposed amendments will allow for greater clarity for all conditional zoning districts; Appendix E *Conditional Rezoning Districts* will outline the approved conditions particular to each conditionally zoned parcel. Updates throughout the Pender County Unified Development Ordinance will refer to Appendix E *Conditional Rezoning Districts* for conditions particular to these properties. This update will easily allow staff to share with the public information concerning approved conditional rezoning districts.

Recommendation: At the February 4, 2014 Planning Board unanimously voted to recommend approval of the aforementioned Text Amendment to the Pender County Unified Development Ordinance as described in the staff report and attachments, therefore staff is respectfully recommending approval as well.

Amendment Outline:

The following outline describes the proposed amendments by topic. The proposed amendments will clarify conditions particular to subject parcels in approved conditional rezoning cases.

Create Appendix E

The proposed Appendix E titled *Conditional Rezoning Districts* will be a composite of all approved conditional rezoning districts and the conditions specific to subject parcel which differ from the underlying zoning district. By cataloging all approved conditional rezoning cases in Appendix E staff proposes this information will be readily available and easy for citizens to access. As additional conditional zoning districts are established, Appendix E will be updated accordingly. Proposed Appendix E *Conditional Rezoning Districts* is shown in Attachment 1.

Administrative Updates

In order to ensure consistency with the proposed Appendix E *Conditional Rezoning Districts*, the references to conditional rezoning districts throughout the Pender County Unified Development Ordinance must be updated. The following amendments are necessary to ensure readability of the Pender County Unified Development Ordinance.

3.4 CONDITIONAL REZONING

3.4.1 Intent

- F. A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or special use, on small and large scale projects.
- G. All uses listed as part of any application must be in the same format and description as listed in the Table of Permitted Uses.
- H. The following zoning district categories are approved to be assigned conditional zoning districts: RA, PD, RP, RM, GB, OI, IT, GI (Reference Article 4 and Appendix E for Zoning District Descriptions).

4.4 ZONING DISTRICTS ESTABLISHED

In order to implement all purposes and provisions of this Ordinance and the adopted Comprehensive Land Use Plan, and any other adopted County land use documents, the following districts are hereby established:

ZONING DISTRICTS	
Symbol	Name
Residential Districts	
RA	Rural Agricultural
RP	Residential Performance
RM	Residential Mixed
MH	Manufactured Housing Community
Planned Development Districts	
PD	Planned Development
Community Districts	
GB	General Business
OI	Office Institutional
Industrial Districts	
IT	Industrial Transitional
GI	General Industrial
Special Purpose Districts	
EC	Environmental Conservation
Overlay Districts	
AV	Aviation Support
FH	Flood Hazard Area
WS-PA	Watershed Protected Area
WS-CA	Watershed Critical Area
Conditional Districts	
For all approved Conditional Zoning Districts Reference Appendix E	

EVAULATION:

Approval Criteria

As prescribed in the Pender County Unified Development Ordinance Section 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

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 character of and social assets of the predominant rural lifestyle and coastal environment that makes the County a unique place to live.

Policy 1A.1.6. Use conditional zoning process to enable developers to contribute to addressing the impact of developments on capital facilities and other resources; incorporate regulations into new Unified Development Ordinance to enable a small project to address specific impacts to an existing adjacent community.

RECOMMENDATION:

The proposed text amendment is consistent with the Unified Development Ordinance and Comprehensive Land Use Plan. Staff respectfully recommends approval of the aforementioned Text Amendment to the Pender County Unified Development Ordinance as described in the staff report and attachments.

Planning Board

Motion: Edens Seconded: McClammy

Approved: x Denied: Unanimous: x

Williams: x McClammy: x Boney: Baker: x Edens: x Marshburn: Nalee:

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 11114	Date	12/20/13
Application Fee	\$ N/A	Receipt No.	N/A
Pre-Application Conference	N/A	Hearing Date	PB 2/4 BOC 2/18

SECTION 1: APPLICANT INFORMATION

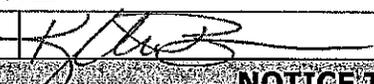
Applicant's Name:	Pender County Planning & Community Development
Applicant's Address:	805 S. Walker St.
City, State, & Zip	Burgaw NC 28425
Phone Number:	910 259-1276

SECTION 2: UDO TEXT TO BE AMENDED

Current Text to be Amended (Please site accurate Article number referenced):
Addition of Appendix E Conditional Rezoning Zoning Districts, which will outline conditions specific to approved conditional rezoning cases. All administrative changes associated with this update are included (references, etc.).

Proposed Text to be added:

SECTION 3: SIGNATURE

Applicant's Signature 	Date: 12/20/2013
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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 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 Payment Method:	N/A <input type="checkbox"/> Cash \$ <input type="checkbox"/> Credit Card <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Total Fee Calculation: <input type="checkbox"/> Check #
Application Received By: 	Date: 12/20/13	
Application completeness approved by: 	Date: 12/20/13	
Dates Scheduled for Public Hearings: <input checked="" type="checkbox"/> Planning Board: 2/14/14	<input checked="" type="checkbox"/> BOC: 2/18/14	

APPENDIX E CONDITIONAL ZONING DISTRICTS

In accordance with Section 3.4 Conditional Rezoning; the following conditional use zoning districts are established and applied to each subject property as set forth on the official zoning map. Each conditional use district (bearing the designated CD on the official zoning map) corresponds to the underlying general use district. All zoning requirements that apply to the general use district are also applicable in the conditional use district unless adopted conditions are more restrictive.

Case Number	Change Requested	Final Action
11034	From RA to RA-CD	Approved 12/9/13

CASE 11034

Rezoning Proposal: EFS Properties, LLC, applicant and owner, is requesting approval of a Zoning Map Amendment for a Conditional Rezoning from RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District for the use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123) operation.

Property Record Numbers, Acreage, and Location: The property is located along the north side of NC Highway 210, approximately 3,400 feet northeast of the intersection of Shaw Hwy and NC Hwy 210, Rocky Point. The property contains approximately 55.69 acres and may be identified as Pender County PIN 3255-78-6248-0000.

Summary: This proposal consists of a Zoning Map Amendment for a conditional rezoning of 55.69 acres from RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District, for the use of a Nonmetallic Mineral Mining and Quarrying (NAICS 2123), specifically for a sand mine. The request complies with the criteria set forth in Article 3.4.4 of the Unified Development Ordinance. The request is consistent with the 2010 Comprehensive Land Use Plan.

Project Description: According to the applicant’s submitted site plan and supporting materials, the site will contain several areas associated with the sand excavation. These areas, as depicted within Table 1 below will contain areas for temporary sediment collection, stockpile areas, and the pit/excavation area. Adjacent to the excavation area, will contain an office/construction trailer for on-site staff when the mine site is active. Ingress/egress to the site will utilize a driveway connection to NC Highway 210, subject to review and approval from the NCDOT.

Table 1

CATEGORY	AFFECTED ACREAGE
Tailings/Sediment Ponds	0.86
Stockpiles	1.65
Wastepiles	0
Processing Area/Haul Roads	1.45
Mine Excavation	12.7
Other	0
Total Disturbed Acreage	16.66

It is anticipated that the mine excavation will commence and be active for approximately three years. The State Mining Application (Attachment 1) submitted is requesting a ten year approval, this is in part due to demand of the excavated material and is requested to allow for the full ten year state allowance. Excavation activities will be limited to a frontend loader and truck as there will be no explosives used on site. The maximum depth of the mine will be limited to twenty (20') feet below the natural ground level, which is a decrease from the

applicant's original request of thirty (30') feet due in part to address community concerns of impacts that may be caused to wells.

The anticipated mine depth will require dewatering activities on site. The applicant has stated that this will not exceed 5,000 gallons per day (gpd). As outlined within Attachment 1, there are not any wells located within 500' of the excavation area. This is confirmed through statement provided by Pender County Utilities (November 28, 2012 phone conversation).

The project will incorporate a minimum of a 100' No Disturb Area surrounding the excavation area, stockpile, and temporary sediment trap. Any areas outside of the limits of disturbance will maintain the existing natural vegetation.

According to the Pender County Unified Development Ordinance, a public input meeting must be held with the adjacent property owners to discuss concerns and evaluate mitigating factors that may be conditioned with the application. On September 25, 2013, Mr. Charles Cazier, Professional Engineer, held the required meeting at the county administrative building, Pender County planning staff was present. The meeting was attended by four individuals in which the main topics brought up for discussion were: *effects to wells within the area; concerns of depth of mine; values of adjacent properties; and the intention of future site use.* As a resultant of the meeting and comments, the applicant has proposed to reduce the maximum mine depth from thirty (30') feet to twenty (20') feet. Also, it has been stated that the resultant of the mine will be a pond feature that could be utilized for future residential development on the tract.

As a criterion for a conditional rezoning request, mutually established conditions must be met between the applicant and the county for the project. Staff has met with the applicant to discuss the project and review proposed conditions. The applicant has verbally accepted these conditions and are proposed in this report (see item F) under EVALUATION.

Approval: On December 9, 2013 the Pender County Board of Commissioners approved a Zoning Map Amendment for a Conditional Rezoning from RP, Residential Performance, to RA-CD, Rural Agricultural – Conditional District as described herein.

Conditions of Approval:

1. Maximum depth of the pit/excavation area will be limited to twenty (20') feet in depth measured from the natural ground level.
2. Hours of operation shall be from 7am to 7pm Monday through Saturday.
3. Mining/extraction activities on-site shall be limited to three (3) years.
4. Material mined/extracted shall be limited to sand only.
5. The project shall comply with all applicable requirements as outlined in the Pender County Unified Development Ordinance.
6. No junk, debris, trash, inoperable vehicles, recycled or salvaged materials shall be stored on the site.
7. All operations must follow federal, state, and local standards, regulations, ordinances, permits, statutes, and/or laws.

8. As shown on the site plan submitted for the project, a No Disturb Buffer of at least 100' shall be maintained around the permitted Pit/Excavation Area.
 9. Dewatering of the excavation site utilizing pumping mechanisms shall be prohibited.
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