



REQUEST FOR BOARD ACTION

ITEM NO. 21

DATE OF MEETING: October 26, 2015

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

SHORT TITLE: Resolution to Amend the Pender County Unified Development Ordinance to add Exceptions for Buffer Location and Applicability as well as to Update Final Plat Requirements Adding Addressing Coordinator Signatory.

BACKGROUND: Pender County, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance to amend Sections 8.1.2 and 8.2.2 to revise the requirements for buffer location and applicability. Additionally, to amend Section 7.6 to allow for cluster boxes as a permitted use in dedicated open space, Appendix A; Definitions to add Addressing Coordinator and Appendix D; Typical Forms and Surveyor Notes, to include Addressing Coordinator approval on Final Plat.

SPECIFIC ACTION REQUESTED: To hold a public hearing and consider a resolution to amend the Pender County Unified Development Ordinance as described above and within the Staff Report.

RESOLUTION

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

on October 26, 2015 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: Williams ___ Brown ___ McCoy ___ Piepmeyer ___ Keith ___

J. David Williams, Chairman 10/26/2015
DATE

ATTEST 10/26/2015
DATE

Currently, if a new use or building is proposed on a site, buffers may be required per Section 8.1.2. The buffers, regardless of the area being developed on the site, are required to be located along the entire perimeter of the parcel. If the parcel is large, it may become unreasonable to require a buffer around the entire site, because significant cost may be added to the project for the landowner and/or developer.

The first portion of the proposed Zoning Text Amendment amends Section 8.1.2 to clarify the applicability of the requirement of landscaping and buffering when a new use is introduced or an existing use is expanded on site. The second portion of the proposed Zoning Text Amendment amends Section 8.2.2 to add an exception to the required buffer location, providing an alternative from the current requirement that a buffer be located within the outer perimeter of a lot or parcel. The new exception would allow the buffer on a site five (5) acres or larger to be located within the outer limit of disturbance of the use. This proposal alleviates potentially cost-prohibitive and burdensome buffer requirements of the Unified Development Ordinance.

The specific Unified Development Ordinance text to be amended is attached as Exhibit 1.

Addressing

The second portion of the Zoning Text Amendment is to include the Addressing Coordinator as a required signatory on a residential subdivision Final Plat for recordation at the Register of Deeds. By formally including the Addressing Coordinator in this approval, all roadway arrangements, connections and road names are finalized with Emergency Services. The Addressing Coordinator is a part of the TRC to provide comments to the applicant in the preliminary development phases and a required signature on the Preliminary Plat. An additional signature line on the Final Plat will provide assurance that road names have been reviewed and are in compliance limiting potential safety issues in the future mainly by eliminating the potential for duplicate road names to be issued. This addition will be in Appendix D; Typical Forms and Surveyor Notes.

The definition of Addressing Coordinator is required to Appendix A; Definitions of the Unified Development Ordinance. The Road Naming Ordinance defines Addressing Coordinator as; the official charged with administration of this ordinance including their authorized representatives. The Addressing Coordinator shall be defined as; Individual, including their authorized representatives, charged with the administration of the road naming and addressing guidelines along with the coordination of the E-911 Operations Director.

Finally, this Zoning Text Amendment includes a portion to allow for cluster boxes to be identified as a permitted use in dedicated open space within a development. After meeting with representatives from the US Postal Services, individual mailbox locations at residences and commercial office parks are no longer permissible in an effort to increase efficiency. The Amendment is to allow for these structures to be designed in open space and outside of the identified NCDOT right of way. This would allow developers to design cluster box locations, especially for ingress and egress at the preliminary development stages rather than as they are working with the Postal Service for mail services after the development is finalized. This amendment would be accommodated in the text in Section 7.6 Open Space.

The specific Unified Development Ordinance text to be amended is attached as Exhibit 2.

EVALUATION

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 Planning Board and 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.

Appendix A of the Ordinance defines buffer as an open area used to separate one use from another. Section 8.1.1.F states a portion of the intent of landscaping and buffering: buffer and landscape trees and other plants also help reduce noise from auto traffic, glare from auto and other lights and help collect and reduce litter from reaching adjacent properties. This text amendment attempts to advance the public health, safety and welfare by being consistent with Appendix A and Section 8.1.1.F of the Unified Development Ordinance.

In an effort to provide efficient customer service and development approvals, Planning Staff is proposing to the Addressing Text Amendment items discussed, which are consistent with public health, safety and welfare.

2010 Comprehensive Land Use Plan Compliance:

There are no conflicting policies within any adopted land use documents for the proposed Zoning Text Amendment. This Zoning Text Amendment request is consistent with one (1) goal and three (3) policies of the 2010 Comprehensive Land Use Plan and conflicts with none. The following goals and policies within the plan may be relevant to the proposed Zoning Text Amendment:

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.

Emergency Services Goal 2E.1 Ensure adequate response times and capabilities of Sheriff, Police, Fire and Emergency Medical Services.

Policy 2E.1.1 Coordinate plans for Emergency Services, Fire and Emergency Medical Service facilities with the Comprehensive Land Use Plan, Transportation Plan and Metropolitan Planning Organization requests for Transportation Improvement Program funding.

Policy 3A.1.2 To the extent possible, incorporate more flexible zoning categories that establish performance standards and do not exclude uses as much as encourage compatible co-location of uses to encourage sustainable land use patterns. Neo-traditional or traditional neighborhood planning standards should provide for a compatible mix of uses to encourage more livable communities.

RECOMMENDATION

At their October 13, 2015 meeting the Pender County Planning Board recommended approval of the Zoning Text Amendment to the Unified Development Ordinance as described in this report, as it is consistent with the Unified Development Ordinance and one (1) goal and four (4) policies within the 2010 Pender County Comprehensive Land Use Plan.

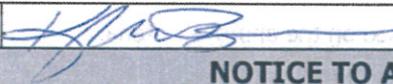
BOARD ACTION FOR ZONING TEXT AMENDMENT

Motion: Nalee **Seconded:** Fullerton

Approved: x **Denied:** **Unanimous:** x

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

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 11446	Date	7-17-15
Application Fee	\$ NA	Receipt No.	NA
Pre-Application Conference	NA	Hearing Date	PB: 9-1-15 BOC: 9-28-15
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):			
Section 8.1.2 and 8.2.2			
Proposed Text to be added:			
Refer to Exhibit 1			
SECTION 3: SIGNATURE			
Applicant's Signature			Date: 7/17/2015
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		
NA <input type="checkbox"/>	Application fee		
NA <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		NA	
Payment Method:		Total Fee Calculation: NA	
NA	Cash: <input type="checkbox"/> \$ _____	Credit Card: <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	Check: <input type="checkbox"/> Check # _____
Application Received By:		Date: 7-17-15	
Application completeness approved by:		Date: 7-17-15	
Dates Scheduled for Public Hearings:		<input checked="" type="checkbox"/> Planning Board: 9-1-15	<input checked="" type="checkbox"/> BOC: 9-28-15

Pender County Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

TEXT AMENDMENT

A request to amend the text of this Ordinance may be initiated by the County Commissioners, Board of Adjustment, Planning Board, Administrator, or a citizen of Pender County.

Approval Criteria (Section 3.18.5)

In evaluating any proposed ordinance text amendment, the Planning Board and the County Commissioners shall consider the following:

- a. The extent to which the proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements;
- b. 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;
- c. Whether or not the proposed text amendment corrects an error in the Ordinance; and
- d. Whether or not the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law.
- e. 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.

Action by the Planning Board

1. Before making any recommendation on a text amendment, the Planning Board shall consider any recommendations from the Administrator and shall conduct a public hearing where interested parties may be heard.
2. The Planning Board shall make a recommendation based on the approval criteria.
3. The Planning Board shall make its recommendation following the initial public hearing.

Action by County Commissioners

1. Before taking action on a text amendment, the County Commissioners shall consider the recommendations of the Planning Board and Administrator and shall conduct a public hearing.
2. The County Commissioners shall make a decision based on the approval criteria.
3. Following the public hearing, the County Commissioners may approve the text amendment, deny the amendment, or send the amendment back to the Planning Board or a committee of the County Commissioners for additional consideration.

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.

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 principle 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. An existing use is expanded sufficiently to increase its square footage by fifty percent (50%) or more, in any one or more expansions; or
- D. A change in use from residential related to office, service, commercial or industrial, or from office, service or commercial to industrial; or
- E. In any residential development with two or more types of housing development;
- F. A use is discontinued on a site for a consecutive period of one hundred eighty (180) days per Section 10.3.4 and a new use is proposed;

8.2.2 Location

Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way. Buffers may be located and constructed within any required setback.

Exception: When landscaping and buffer requirements shall apply per Section 8.1.2 and when a site is five (5) acres or larger, the required buffer may be located within the outer perimeter of the limit of disturbance of the project area on the lot or parcel. If the limit of disturbance is expanded, the buffer shall be adjusted accordingly.

7.6 OPEN SPACE

7.6.1 Requirements

- A. Every Subdivider of land for residential purposes shall dedicate a portion of such land, as set forth herein, for the purpose of providing, active and passive recreation areas to serve the residents of the immediate neighborhood within the subdivision.
- B. Open Space Areas Can Be Defined By Active Or Passive Open Space As Follows:
- 1) Active Open Space consists of areas such as park land chosen without regard to natural features for the explicit purposes of enhancing design, such as village commons, or providing space for outdoor recreation activities which may include, but not be limited to, cluster boxes, tennis courts, ball fields, swimming pools, and tot lots with play equipment.
 - 2) Passive Open Space areas must consist of undisturbed, unique and sensitive natural features when available, that may include streams, floodplains, wetlands (excluding tidal marsh) conservation resources, and natural heritage areas if identified. These natural spaces will be characterized by undisturbed soils and natural vegetative cover for wildlife habitat. Passive Open space may become part of designated County greenways. Amenities such as walking paths, piers, picnic areas and other passive recreational uses will be allowed with minimal disturbance of the vegetation.
- C. Required Open Space: All new residential subdivisions shall provide open space in the amount of 0.03 acres per dwelling unit within the subdivision. No more than 50% of the required open space shall be designated as passive open space. 50% or more of the required open space shall be designated as active open space.
- D. Exemptions to Open Space
- 1) Density calculations of a development that is one unit per acre or greater in the RP and RA Zoning Districts.
 - 2) Developments consisting of 10 units or less.
- E. Standards for Park, Recreation and Open Space Areas: Except as otherwise approved by the Planning Board, all park, recreation and open space areas shall meet the following criteria:
- 1) Unity: The dedicated land shall form a single parcel of land, whether or not the subdivision is developed in phases or sections, except where it is determined by the appropriate governing body, that 2 or more parcels would be in the best interests of the residents of the subdivision and the public; and in such case, the appropriate governing body, may require that such parcels be connected.
 - 2) Shape: The portion of dedicated land to be used for active recreation shall be of such a shape to be usable for active recreational facilities including but not limited to tennis courts, racquetball courts, swimming pools, exercise rooms, clubhouses, athletic fields, basketball courts, swings, slides and play apparatus.
 - 3) Greenways: If open space is a greenway, the land shall be a continuous linear parcel through the subdivision of at least 30 feet in width.
 - 4) Location: The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the immediate neighborhood within the

subdivision for which the land dedication is made and can be combined with an adjacent park.

- 5) Access: All dwelling units in the subdivision shall have suitable, safe, and convenient ingress and egress to and from the park, recreation and open space areas provided within the development by means of improved streets or dedicated walkways. Rights-of-way for such access shall be shown on the preliminary plans and final plats.
- 6) Required Stormwater Detention/Retention Facilities: Required stormwater detention/retention facilities shall not be accepted to fulfill the requirements set forth by this Section. However, the County may allow significant natural water bodies (SNW's) such as lakes and streams to be counted as qualifying active open space provided that public ancillary features such as docks, piers, launching facilities, or paddle trails, or other aquatic amenities are provided. Such facilities shall be reviewed and approved by appropriate state agencies and the Planning Board at the time of Master Plan approval.
- 7) Landscaping: Park, recreation and open space areas which include amenities such as tennis courts, racquetball courts, swimming pools, exercise rooms, clubhouses, athletic fields, basketball courts, swings, cluster boxes, etc. shall be landscaped and shall be provided with sufficient natural or manmade screening or buffer areas to minimize any negative impacts upon adjacent residences
- 8) Encroachments: The park, recreation and open space areas required by this Article shall exclude roadways, parking areas and other accessory uses except for areas associated with recreational facilities.
- 9) Consistency with Pender County Parks and Recreation Comprehensive Master Plan: If any portion of any subdivision proposed for residential development lies within an area designated on the officially adopted Plan as a park, such area shall be included as part of the area set aside to satisfy the requirements of this Article up to the maximum requirement of open space calculations. This area shall be reserved for public use.
- 10) Procedure for Dedication of Land:
 - a) Designation of Land to Be Dedicated - Subdivider shall designate on the Master Plan, the area or areas to be dedicated pursuant to this Article.
 - i) Review of Land to Be Dedicated - Upon receipt of the Master Plan, the Administrator shall submit a copy thereof to the appropriate governing agency for review. The appropriate governing agency shall submit any and all recommendations concerning the land to be dedicated to the Planning Board at its next scheduled meeting.
 - ii) Ownership - The type of ownership of land dedicated for park, recreation or open space purposes shall be selected by the owner, developer, or Subdivider, subject to the approval of the Planning Board. Provided, however, any of such areas included in the master parks plan shall be dedicated to the county. The type of ownership may include, but is not necessarily limited to, the following:
 - a. The county, subject to the acceptance by the Planning Board;
 - b. Other public jurisdiction or agencies, subject to their acceptance;
 - c. Appropriate non-profit agencies, subject to their acceptance;
 - d. Property owner, condominium or cooperative associations or organizations.

APPENDIX A DEFINITIONS

Words and terms set forth below shall have the meanings ascribed to them. Any word, term(s) or phrase used in this Unified Development Ordinance not defined below shall have the meaning ascribed to such word, term or phrase in the most recent editions of Merriam-Webster's Dictionary, Black's Law Dictionary or American Planning Association Planner's Advisory Service, Dictionary of Terms unless, in the opinion of the Administrator, established customs or practices in Pender County justify a different or additional meaning. Furthermore, for the purpose of this Unified Development Ordinance, certain words, terms and phrases are herein defined as follows:

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number and the plural singular.
- C. The word "shall" and "will" are mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The word "lot" shall include the words "parcel", "plot" and "tract".
- F. The word "building" and "structures" are synonymous.
- G. The phrase "used for" shall include the terms "intended to be used", or "intended for" and "designed for" and "occupied for".
- H. Words used here in the masculine gender shall be interpreted to include the feminine gender.
- I. References to Section numbers herein refer to the Pender County Unified Development Ordinance unless specifically stated otherwise.

60-YEAR Setback means a distance equal to sixty (60) times the average annual long-term recession rate at a site, measured from the reference feature.

ACCESS EASEMENT: An easement that is at least forty five (45') feet wide and is recorded by map or other instrument in the Registry that specifically transfers rights to the adjacent property owners or specific property owners and their assigns, invitees, licensors and permittees for ingress, egress and utilities and for the construction and maintenance of ingress, egress and utility facilities. An access easement by designation on a recorded plat also transfers the right to construct and maintain water, sewer, electric and communication lines within the easement by any public entity or public utility.

ACCESS: A way or means of vehicular or pedestrian approach to provide physical entrance to a property.

ACCESSORY OR SECONDARY USE: A use of land or of a building or portion thereof customarily associated with and incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A secondary use shall be a use not already permitted by right in a zoning district but may be permitted in conjunction with a permitted use. In no instances shall an accessory or secondary use be permitted without the presence of a primary use.

ACCESSORY STRUCTURE (Appurtenant Structure): a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ACTIVE BUFFER: A distance buffer which contains no building or principal structure of activity but which may contain an accessory use or activity.

ACTIVE OPEN SPACE: Consists of areas such as park land chosen without regard to natural features for the explicit purposes of enhancing design, such as village commons, or providing space for outdoor recreation activities which may include, but not be limited to, tennis courts, ball fields, swimming pools, and tot lots with play equipment

ADDITION: A structure added to the original structure at some time after the completion of the original.

ADDRESSING COORDINATOR: Individual, including their authorized representatives, charged with the administration of the road naming and addressing guidelines of Pender County along with the coordination of the E-911 Operations Director.

ADJACENT OR ADJOINING LOT OR LAND: A lot or parcel of land which shares all or part of a common lot line with another lot or parcel or land or which is immediately across a street or road from said parcel or lot.

ADULT CARE RESIDENCES: A public or private establishment operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting. Adult care residences do not include facilities or portions of a facility licensed by the State Board of Health and the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; and a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21.

APPENDIX D TYPICAL FORMS AND SURVEYOR NOTES

PERFORMANCE GUARANTEE REQUIREMENTS

Guarantee Required Prior to Signing Final Plat

Prior to signing the Final Plat for recordation by the Administrator, items A or B in this Section must be complete. Upon default, meaning failure on the part of the Subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall if requested by Pender County, pay all or any portion of the bond or escrow fund to the County up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, Pender County, in its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements.

- A. All requirements of this Ordinance are complete including the following:
 - 1) All improvements required by this Ordinance and required as a condition of approval, must be constructed and/or installed.
 - 2) All improvements required by this Ordinance and required as a condition of approval must be certified by a licensed surveyor and/or engineer that their construction and installation is complete in accordance with the standards of this Ordinance.
 - 3) All public streets and related drainage are certified to be complete and in accordance with NCDOT requirements by the NCDOT District Engineer.
 - 4) A Defects Guarantee for the required improvements has been submitted and approved in accordance with this Ordinance.
- B. Documents guaranteeing the completion of all required improvements have been submitted and approved including the following:
 - 1) A Performance Guarantee Agreement for Improvements in favor of Pender County on an approved format in this Ordinance or in a format approved by the Pender County Attorney shall be submitted and approved.
 - 2) An Irrevocable Letter of Credit, Performance Bond, or Escrow Agreement in favor of Pender County or in a format approved by the Pender County Attorney shall be submitted and approved to cover the cost of the incomplete and uncertified improvements. The amount of the Guarantee will be at least equal to the cost of construction of the improvements as shown on a Construction Cost Estimate prepared, signed, and sealed by a licensed engineer.
 - 3) Release of Guarantee Security
 - 4) The County may release a portion of any security posted as the improvements are completed once said improvements are inspected and approved and that their construction and installation is complete in accordance with the standards of this Ordinance.

Type Guarantee Required

- The Guarantee shall provide for 125% of the estimated cost of completion in one of the following forms:
 - 1) Filing an irrevocable letter of credit from a federally insured lending institution specifying the limit of credit dedicated to the subject subdivision which will be extended to the County upon request.
 - 2) Depositing or placing in escrow, a certified check or cash, conditioned upon satisfactory completion of the final plat requirements and improvements.

- 3) Filing a performance or surety bond from a licensed surety or bonding company assuring completion of the improvements.

Release of Guarantee Requirements

- A. The Administrator shall release the Performance Guarantee when all requirements of this Ordinance have been met, construction and installation of all required and proposed improvements have been completed and certified and a Defects Guarantee has been submitted and approved. Certification must include the following:
 - 1) Certification from a Professional Land Surveyor that all monuments and markers required by this Ordinance and NCGS 39-32.1-4 have been installed.
 - 2) Certification from the District Engineer that public streets have been constructed to NCDOT Secondary Road Standards.
 - 3) Certification from a Registered Engineer that construction of private streets and all other required and proposed improvements have been completed specifically in compliance with the provisions of this Ordinance.
 - 4) Certification of completion and performance of the Drainage System by a Registered Engineer or Land Surveyor.
 - 5) Certification by the Administrator or his designee that the improvements required have been installed and such approval is issued to the Subdivider in writing and entered into the record file.
 - 6) Performance Guarantees shall require construction and installation of improvements within one year after the date of issuance of a permit or approval of construction plans if no permit is required.
 - 7) The applicant may request up to two (2) extensions up to six months of the time limit for compliance if circumstances beyond the control of the applicant warrant an extension. The request for an extension shall be in writing and accompanied by a schedule for completion of remaining work. Approval of such request shall be at the Administrator's sole discretion.

Required Improvements

- A. Monuments and Markers
 - 1) Control monuments shall be set at the points of curvature ("PC" and "PT") or at the "PI" of all street centerline curves (one monument per curve if installed at the "PI" and two if installed at the points of curvature). However, no more than two street centerline curve control monuments will be required within a 1,000 feet lineal section of any street. A standard steel 60 penny nail or a standard "PK" or "MAG" nail shall be placed at these points where control monuments are not located. "PK" and "MAG" nails shall be at least 2.5 inches long.
 - 2) Centerline control monuments will not be required on cul-de-sacs 500 feet or less in length when nails specified above are located at required monument control points.
 - 3) A control monument shall be placed at all street centerline intersections.
 - 4) Monuments set in the street pavement shall have monument access boxes set on top of a brick, block, other masonry, or rock footing.
 - 5) When any portion of the development is in a Special Flood Hazard Area, as defined in this Ordinance, as amended, and set out in the FEMA Flood Insurance Rate Maps (FIRM), one (1) permanent monument in each subdivision is required to have its elevation recorded on the final plat.
 - 6) A steel or iron pipe or the equivalent of not less than one-half (1/2) inch in diameter and at least thirty (30) inches in length, where possible, shall be set at all property and lot corners, except those located by monuments. A property marker

shall also be set in street right-of- way lines at the point of curvature and point of tangency.

7) Control Corners, as described and required in NCGS 39-32.1-4, shall be installed.

GRANTOR/GRANTEE CERTIFICATE

The following statement shall appear on the plan and be signed by the Grantor(s) and Grantee(s) prior to approval:

The Grantor(s) and Grantee(s) certify that the Grantee(s) is within three (3) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Pender County Unified Development Ordinance, and that none of the lots shall be conveyed to non-family members for a period of not less than five (5) years.

Grantor

Grantee

Commentary: "Siblings are related to each other in the second degree and uncle and niece are related to each other in the third degree"

CERTIFICATE OF DISCLOSURE: PRIVATE ROADS

I (we) the developers of _____ subdivision located in the unincorporated area of Pender County understand that the roads in said subdivision are designated private. I understand that ownership and maintenance of the roads will be the responsibility of the developer until such time that the developer designates the responsibility to the property owners' association. Responsibilities must be accepted by the homeowners association as specified in the homeowner covenants for said subdivision. The private roads in said subdivision are to be constructed in accordance with this UDO and all applicable County Codes which includes the design, installation, inspection, and approval by a licensed Professional Engineer (PE) recognized in the State of North Carolina prior to final plat approval for all or a portion of the subdivision. If all or a portion of the road infrastructure system within the subdivision is bonded through a surety, performance bond, or cash escrow, no bond shall be released until all road construction improvements are complete and certified by the Professional Engineer.

It shall be disclosed to the prospective buyer of a lot or lots within the subdivision that road maintenance shall run through the property owners association in perpetuity after acceptance from the developer until such time that the roads are re-platted as publically designated roads and taken over for maintenance through the North Carolina Department of Transportation (NCDOT).

DEVELOPMENT AGREEMENTS

As authorized by this Ordinance, Development Agreements must comply with all state regulations in NCGS §153A-349.1 et. seq.

REQUIRED CERTIFICATES (PRELIMINARY PLAT)

The following certificates shall appear on the preliminary plat signed and sealed prior to approval:

Certification of Submission
 A copy of this plat has been submitted. Approval is subject to review; this does not constitute an approval.

Pender County Utilities: _____ Date: _____
 Pender County Environmental Health: _____ Date: _____
 Pender County Addressing Coordinator: _____ Date: _____

Certificate of Preliminary Plat Approval
 Preliminary Plat Approved by Pender County for a period of two (2) years subject to the Pender County Unified Development Ordinance requirements and conditions of approval.

Planning Staff: _____ Date: _____

REQUIRED CERTIFICATES (FINAL PLAT)

The following certificates shall appear on the final plat signed and sealed prior to approval:

Certificate of Ownership, Dedication, and Jurisdiction
 I (we) hereby certify that I am (we are) the owner(s) of the property shown and described here on and that I (we) hereby adopt this plan of subdivision with my (our) own free consent and dedicate all streets, alleys, walks, parks, and other areas to public or private use as noted. Further, I (we) certify that the land as shown here on is located within the subdivision jurisdiction of Pender County.

Owner: _____ Date: _____
 Owner: _____ Date: _____

Surveyor Certificate I
 I, _____, certify that this plat was (drawn by me or drawn under my supervision) from (an actual survey made by me or made under my supervision) (deed description in Book _____, Page _____,) or (other); that the boundaries not surveyed are clearly indicated as drawn from the information found in Book _____, Page _____; that the ratio of precision as calculated is 1: _____; that the plat was prepared in accordance with G.S.47-30 as amended.

Witness my original signature, registration number and seal this day of _____ A.D. _____.

Signature: _____ (Seal)
 Registration Number: _____

Surveyor Certificate II
 The subdivision shown on this plat (does/does not) contain Special Flood Hazard Areas and (is/is not) located in a Floodway as delineated by the Federal Emergency Management Agency.

The subdivision shown on this plat (does/does not) contain Areas of Environmental Concern as delineated by the North Carolina Coastal Resources Commission.

Witness my original signature, registration number and seal this day of _____ A.D. _____.

Signature: _____ (Seal)
 Register: _____

Surveyor Certificate III

One of the following must be stated:

1. This plat is of a survey that creates a subdivision of land within the subdivision area of a county or municipality that has an ordinance that regulates parcels of land.
2. This plat is a survey that is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land and is therefore not subject to regulation by a subdivision ordinance.
3. This plat is of an existing parcel or parcels of land and does not create a new street or change in existing streets as defined in the Unified Development Ordinance and is exempt from the definition of subdivision contained in said Unified Development Ordinance.
4. This plat is a survey of an existing building or other structure, or a natural feature and is therefore not subject to regulation by an ordinance.
5. This plat and survey is a control survey and is therefore not subject to regulation by the Pender County Unified Development Ordinance.
6. This plat is a survey of another category, such as the recombination of existing parcels, a court-ordered survey or other exception to the definition of subdivision and is therefore not subject to subdivision regulation.

Witness my original signature, registration number and seal this day of ____ A.D. ____.

Signature: _____ (Seal)

Registration Number: _____

Note: Surveyor Certificates II & III may be combined into one Certificate.

Parcel Identifier Certificate

Parcel Identifiers have been issued for all parcels shown on this plat.

Tax Supervisor: _____ Date: _____

Certificate of Registration by Register of Deeds

Pender County, North Carolina

Filed for registration on the ____ day of ____ 20__ at ____ a.m./p.m. and duly recorded in book ____ at page ____, slide _____.

Register of Deeds: _____

Private Road Certification

I (we) hereby certify that all private roads as depicted on subdivision plat _____ have been designed, installed, inspected, and approved in accordance with Article 6 of the Pender County Unified Development Ordinance and all applicable Pender County Codes prior to final plat approval for all or a portion of the subdivision.

By certifying the construction of these roads as private, there are no guarantees or assurances of acceptance of said roads by the North Carolina Department of Transportation.

Certified Professional Engineer: _____ Date: _____

(Seal)

Reviewed and Approved by the Addressing Coordinator

Addressing Coordinator: _____ Date: _____

Engineer/Surveyor Private Street Certification, Major Subdivisions
(Example Form)

(Letterhead)

Date

Pender County
Planning and Community Development
PO BOX 1519
Burgaw, NC 28425

Re: Private Street & Street Drainage Construction Plans for (Name and Section of Subdivision)

This will provide certification that the construction plans, prepared by me or under my supervision for streets and street drainage in the above referenced development comply with the following requirements:

1. The plans comply with the requirements for submission to the North Carolina Department of Transportation (NCDOT) for approval of construction plans for secondary roads.
2. The plans for construction of the streets and access comply with Minimum Design and Construction Criteria for Subdivision Roads, contained in the NCDOT Subdivision Roads Minimum Construction Standards.
3. The plans provide for street drainage in compliance with the NCDOT Subdivision Roads Minimum Construction Standards and NCDOT Guidelines for Drainage Studies and Hydraulic Design.
4. The street and street drainage construction plans meet the requirements of the Pender County Unified Development Ordinance.

This certification is provided this _____ day of _____, 20 _____, to comply with the provisions of The Pender County Unified Development Ordinance.

Surveyor Signature _____ and/or Engineer Signature _____

(Seal)

(Seal)

Surveyor Name _____ and/or Engineer Name _____

Pender County Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

MEMORANDUM

To: Pender County Planning Board

From: Planning Staff

Date: July 8, 2015

RE: Discussion Item— Landscaping and Buffer Requirements

Planning Board,

Staff is requesting your input on two potential options as alternatives to current landscaping and buffer requirements. These options are offered in effort to provide greater flexibility for landowners and/or developers whose proposed use on a site is relatively small compared to the overall size of the site. These potential options are a result of a discussion with a property owner who contacted the Planning office with a concern that a relatively small, new use on his site would trigger the requirement to install a landscaped buffer around the entire perimeter of the relatively large site, potentially becoming cost prohibitive.

Section 8.2.1 of the Pender County Unified Development Ordinance defines a buffer as:

*...a specified land area, **located parallel to and within the outer perimeter of a lot or parcel and extending to the lot or parcel boundary line**, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as berms, fence or wall, or combination hereof, where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not the same as the term "yard" or the term "stormwater management area."*

Section 8.2.2 states that:

***Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line.** Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way. Buffers may be located and constructed within any required setback.*

Staff requests your input on the following options for buffer requirements while considering the following context: If a new use or building is proposed on a site, buffers may be required (per UDO Section 8.1.2). The buffers, regardless of the area being developed on the site, are required to be located along the entire perimeter of the parcel. If the parcel is large, is it unreasonable to require a buffer around the entire site, which could add significant cost to the project for the landowner and/or developer? The following two options are presented as alternatives:

1. **“Use Buffer”**: Rather than require a buffer to be located “within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line,” provide the option for the buffer to be located within the outer perimeter of the use on the parcel. With this option, the use would still be screened from adjacent sites, but the amount of buffer required could potentially decrease significantly.
2. **“Distance Buffer”**: If the limit of disturbance of a use is determined to be a minimum distance (to be determined) from the parcel boundary line, rather than require a buffer to be located “within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line,” provide the option of having no buffer requirement. For example, if a use is at least five hundred feet from the closest property line, is it necessary to screen that use from adjacent properties with a buffer, or is the distance an adequate buffer in itself?

Staff will present the options to the Board for discussion and direction. Thank you for your input.

Pender County Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

MEMORANDUM

To: Pender County Planning Board

From: Planning Staff

Date: August 4, 2015

RE: Discussion Item— Landscaping and Buffer Requirements

Planning Board,

As discussed at the July 8, 2015 Planning Board meeting, Staff is requesting your input on potential UDO text amendment language in effort to provide alternatives to current landscaping and buffer requirements. These potential alternatives are offered in effort to provide greater flexibility for landowners and/or developers whose proposed use on a site is relatively small compared to the overall size of the site. These potential alternatives are a result of a discussion with a property owner who contacted the Planning office with a concern that a relatively small, new use on his site would trigger the requirement to install a landscaped buffer around the entire perimeter of the relatively large site, potentially becoming cost prohibitive.

Staff requests your input on the following proposed ordinance language for buffer requirements while considering the following context: If a new use or building is proposed on a site, buffers may be required (per UDO Section 8.1.2). The buffers, regardless of the area being developed on the site, are required to be located along the entire perimeter of the parcel. If the parcel is large, is it unreasonable to require a buffer around the entire site, which could add significant cost to the project for the landowner and/or developer? Proposed text is included in red below in Section 8.1 and 8.2 of Article 8 Landscaping and Buffering of the Pender County Unified Development Ordinance.

Staff will present the options to the Board for discussion and direction. Thank you for your input.

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 principle structure is built, or
- B. A new use is introduced or an existing use is expanded on site, or
- C. 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
- D. A change in use from residential related to office, service, commercial or industrial, or from office, service or commercial to industrial or
- E. In any residential development with two or more types of housing development.

8.2.1 Buffer Defined

A buffer is a specified land area, located parallel to and within the outer perimeter of a lot or parcel and extending to the lot or parcel boundary line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as berms, fence or wall, or combination hereof, where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not the same as the term "yard" or the term "stormwater management area."

8.2.2 Location

Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way. Buffers may be located and constructed within any required setback.

- A. Exception: When landscaping and buffer requirements shall apply per Section 8.1.2 and when a site is five (5) acres or larger, the required buffer may be located within the outer perimeter of the limit of disturbance of the use on the lot or parcel and shall not be required to be located within the outer perimeter of the lot or parcel and extending to the lot or parcel boundary line. Additionally, if the limit of disturbance is greater than one thousand feet from a lot or parcel boundary line, a buffer shall not be required on that side of the lot or parcel.

Pender County Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

MEMORANDUM

To: Pender County Planning Board

From: Planning Staff

Date: September 1, 2015

RE: Discussion Item— Landscaping and Buffer Requirements

Planning Board,

As discussed at the July 8th and August 4th, 2015 Planning Board meetings, Staff is requesting your input on potential UDO text amendment language in effort to provide alternatives to current landscaping and buffer requirements. Staff's intention was to present a text amendment proposal to you with public hearing regarding buffer language; however, questions arose on which Staff would like to have the Board's input before presenting the amendment.

As previously discussed, this potential text amendment is offered in effort to provide greater flexibility for landowners and/or developers whose proposed use on a site is relatively small compared to the overall size of the site and is a result of a discussion with a property owner who contacted the Planning office with a concern that a relatively small, new use on his site would trigger the requirement to install a landscaped buffer around the entire perimeter of the relatively large site, potentially becoming cost prohibitive.

QUESTIONS FOR PLANNING BOARD

Staff requests your input on the following questions regarding proposed language for UDO Section 8.1.2.C:

- Should buffer requirements be applied when an existing use is expanded on site, and if so, should there be a minimum size threshold that triggers this requirement (such as increase of 2,500 square feet or more or fifty percent increase or more in area)?
- What qualifies as a new use?
 - Does 8.1.2.C conflict in any way with 8.1.2.D?
- If a single building that does not currently meet buffer requirements changes use, should the incoming use trigger buffer requirements?
 - Or does the incoming use trigger buffer requirements only per Section 8.1.2.D?

- If a new use is introduced on site after a former non-conforming use loses nonconforming status (after 180 days per Section 10.3.4), does this qualify as a new use?
- If a single use among many uses within a shopping center changes (and assuming the shopping center does not currently have buffers), how should the buffer requirements be applied?
 - If a new use is introduced within a shopping center (and assuming the shopping center does not currently have buffers), how should the buffer requirements be applied?
 - Should the applicant, who may only occupy a small portion of the shopping center, be required to buffer the entire site around the shopping center?

Staff will present these questions to the Board for discussion and direction. Thank you for your input.

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 principle 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 new use is introduced or an existing use is expanded on site; or
- D. A change in use from residential related to office, service, commercial or industrial, or from office, service or commercial to industrial; or
- E. In any residential development with two or more types of housing development.

8.2.2 Location

Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way. Buffers may be located and constructed within any required setback.

- A. Exception: When landscaping and buffer requirements shall apply per Section 8.1.2 and when a site is five (5) acres or larger, the required buffer may be located within the outer perimeter of the limit of disturbance of the project area on the lot or parcel. If the limit of disturbance is expanded, the buffer shall be adjusted accordingly.

10.3.4 Loss of Nonconforming Use Status

- A. Discontinuance
 - 1) When a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, or greater than one hundred eighty (180) days with good cause shown, the property involved may thereafter be used only for conforming purposes.
 - 2) The resumption of a nonconforming use shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.

- 3) For purposes of determining whether a right to continue a nonconforming use is lost, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole

B. Damage or Destruction

- 1) A nonconforming use located within a structure which has been damaged by fire or other natural causes may retain nonconforming status if the use is reestablished within one year.