



REQUEST FOR BOARD ACTION

ITEM NO. 20

DATE OF MEETING: December 14, 2015

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

SHORT TITLE: Resolution Requesting Approval of a Zoning Text Amendment for Other Nonhazardous Waste Treatment and Disposal.

BACKGROUND: Dallas Harris, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. The request is to amend Section 5.2.3 to add Other Nonhazardous Waste Treatment and Disposal as a permitted via Special Use Permit in the RA, Rural Agricultural and IT, Industrial Transitional zoning districts.

SPECIFIC ACTION REQUESTED: To Hold a Public Hearing and Consider the Approval of a Zoning Text Amendment.

RESOLUTION

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

on December 14, 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, Jr., Chairman 12/14/2015
Date

ATTEST 12/14/2015
Delivered Date

**PLANNING STAFF REPORT
ZONING TEXT AMENDMENT**

SUMMARY:

Hearing Date: November 4, 2015 Planning Board
December 14, 2015 Board of Commissioners
Applicant: Dallas Harris
Case Number: ZTA 000015-2015

Text Amendment Proposal: Dallas Harris, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. The request is to amend Section 5.2.3 to add Other Nonhazardous Waste Treatment and Disposal as a permitted use in the RA, Rural Agricultural zoning district.

Background: The following text amendment is the result of the absence of compost facilities as a by-right use in the RA, Rural Agricultural zoning district which shall be classified as NAICS, North American Industry Classification System Number 562219 for Other Nonhazardous Waste Treatment and Disposal in the Pender County Unified Development Ordinance.

In March of this year, a similar Zoning Text Amendment was proposed and approved to allow for Other Nonhazardous Waste Treatment and Disposal (NAICS 562219) as a permitted via Special Use Permit in the GB, General Business zoning district.

Planning Staff recommended the addition of this specific use to be permitted in the RA, Rural Agricultural zoning district via Special Use Permit, as well as, to include permitted via Special Use Permit in the IT, Industrial Transitional zoning district. At the November 4, 2015 Planning Board meeting, the applicant amended the request to align with Planning Staff recommendation for the proposal. The Pender County Planning Board then unanimously recommended approval of the amendment to permit NAICS 562219 via Special Use Permit in the RA, Rural Agricultural and IT, Industrial Transitional zoning districts.

RECOMMENDATION

The proposed text amendment is consistent with three (3) goals and policies of the 2010 Pender County Comprehensive Land Use Plan. Administrator respectfully recommends a change of the proposed amendment to the Unified Development Ordinance as described in the following report.

This amendment specifically addresses the addition of NAICS 562219 “Other Nonhazardous Waste Treatment and Disposal” permitted in the RA, Rural Agricultural zoning district. It is recommended by both the Planning Staff and Planning Board to add to the zoning districts as follows; RA, Rural Agricultural zoning district permitted via Special Use Permit rather than permitted by-right, and add in the IT, Industrial Transitional zoning district permitted via Special Use Permit. The applicant agreed with this recommendation at the November 4, 2015 Planning Board hearing and amended the requested Zoning Text Amendment.

The Special Use Permit requirement in the RA, Rural Agricultural zoning district additional standards could be placed on such facilities to allow for locations throughout the County for yard debris. By including this use as permitted via Special Use Permit in the IT, Industrial Transition zoning district this will allow for conditions to be added to mitigate any impacts based on a specific location, and for three (3) separate zoning districts to include Other Nonhazardous Waste Treatment and Disposal which has been identified as deficiency in sites for yard waste in Pender County, especially for large storm event debris.

AMENDMENT DESCRIPTION

The requested text amendment is to amend Section 5.2.3 of the Pender County Unified Development Ordinance to amend "Other Nonhazardous Waste Treatment and Disposal" which is classified as NAICS, North American Industry Classification System Number 562219 as a by-right use in the RA, Rural Agricultural zoning district. The original request was amended by the applicant at the November 4, 2015 Planning Board hearing to include this use permitted via Special Use Permit in the RA, Rural Agricultural zoning district and via Special Use Permit in the IT, Industrial Transitional zoning district.

According to the NAICS classification, this U.S. industry comprises establishments primarily engaged in:

- (1) operating nonhazardous waste treatment and disposal facilities (except landfills, combustors, incinerators and sewer systems or sewage treatment facilities); or
- (2) the combined activity of collecting and/or hauling of nonhazardous waste materials within a local area and operating waste treatment or disposal facilities (except landfills, combustors, incinerators and sewer systems, or sewage treatment facilities). Compost dumps are included in this industry.

According to the applicants narrative; "this request would advance the public health, safety and welfare of the citizens of Pender County by providing more sites to dispose of non-hazardous materials (trees, limbs, stumps, sod, grass, brush and other vegetative debris). This request would create more competition which would reduce the cost of disposal and provide shorter transportation costs and dangers."

Current Practice for Yard Debris

According to Pender County's website under Pender Solid Waste; State law prohibits the disposal of yard waste and vegetative debris in sanitary landfills. Alternative Disposal Options: backyard composting, controlled burning, contract with a private hauler, or Wilmington Materials on Highway 421 will accept yard wastes for a fee. Wilmington Materials will also accept tree stumps for a fee. The convenience centers in Pender County do not accept yard debris.

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.

Unified Development Ordinance Compliance

The applicant's request now is to amend the use type termed as "Nonhazardous Waste Treatment and Disposal" (NAICS 562219), in the RA, Rural Agricultural and IT, Industrial Transitional zoning districts permitted via Special Use Permit as recommended by both Staff and the Planning Board.

RA, Rural Agricultural Zoning District

The RA, Rural Agricultural zoning district is considered a residential district per Section 4.4 of the Pender County Unified Development Ordinance. According to Section 4.7.1 the RA, Rural Agricultural zoning district

is intended to accommodate non-residential agricultural uses and very low density residential development (minimum of 1 du/ac), as well as limited non-residential uses, in rural areas adjacent to agricultural operations. Development in this District should rely predominantly on individual wells and septic tank systems for domestic water supply and sewage disposal. This zoning district as defined may not be suitable for a by-right use of Nonhazardous Waste Treatment and Disposal. As there is a need for these facilities, location in the RA, Rural Agricultural zoning district may be best approved via Special Use Permit.

All buffer requirements for specific projects and parcels are based on use type and the zoning for the parcel. Within the RA, Rural Agricultural zoning district the use of a Solid Waste Compost facility may require additional buffering similar to an industrial zoning district as the RA, Rural Agricultural District is established as a Residential Zoning District; according to the Pender County Unified Development Ordinance Section 8.2.8. In residential districts a buffer is required between non-residential uses and residential uses. Buffers specifically protect adjacent properties from potential by-products of a specific use.

IT, Industrial Transition Zoning District

Section 4.10.1 details the intent of the IT, Industrial Transition zoning district is specified as; The intent of this district is to provide for heavy commercial activities, involving larger scale marketing or wholesaling, where production and assembly occur onsite and retail sales of those products can be sold on premise where produced. In some cases, such areas may be transitional, located between business and industrial areas. In these areas, there will be a mixture of automobile and truck traffic. Flex space (as defined in Appendix A, Definitions) and technical uses are allowed. Some of the uses in this district will require large areas of land and may have outdoor storage and display. The uses in this district shall not be sources of excessive noise, dust, smoke or other industrial nuisances, as defined in Appendix A. Such industrial transition areas shall be provided with safe and sufficient access.

- A. Development Standards / Applicability - The following standards shall apply to all development within the Industrial Transitional zoning district. In addition to the standards contained in this Article, all other provisions in this Ordinance and all other applicable laws shall apply, except those that are incompatible with the provisions contained herein.
 - 1) Additional building height is allowed at a rate of one additional foot of height for every one foot of additional yard depth (front and sides).

Special Use Permit

A Nonhazardous Waste Treatment and Disposal facility may require additional conditions and review to determine the impact on the area. Section 3.12.1 of the Pender County Ordinance notes that there are some land uses which are basically in keeping with the intent and purposes of the district where permitted, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a Special Use Permit.

2010 Comprehensive Land Use Plan Compliance

The proposed zoning text amendment is in compliance with the following goals and policies in the 2010 Pender County Comprehensive Land Use Plan:

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.

Solid Waste Management Goal 2F.1 Ensure adequate capacity and proper management of solid waste, including reducing, reusing and recycling materials.

Policy 2F.1.4 When siting collection centers, consider surrounding land uses, traffic and aesthetics.

RECOMMENDATION

The proposed text amendment is consistent with three (3) goals and policies of the 2010 Pender County Comprehensive Land Use Plan. Administrator respectfully recommended a change of the proposed amendment to the Unified Development Ordinance as described in the following report.

This amendment specifically addresses the addition of NAICS 562219 “Other Nonhazardous Waste Treatment and Disposal” as a Special Use Permit in the RA, Rural Agricultural and IT, Industrial Transitional zoning districts. The applicant amended the request at the Planning Board hearing on November 4, 2015 and recommended by both Planning Staff and the Planning Board. Further, with the Special Use Permit requirements would allow for additional site specific standards to be placed on such facilities to allow for locations throughout the County for yard debris. The table excerpt from the Table of Permitted Uses Section 5.2.3 below depicts the recommendation on this Zoning Text Amendment request.

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
Sector 56: ADMINISTRATIVE AND SUPPORT AND WASTE MANAGEMENT AND REMEDIATION SERVICES											
Other Nonhazardous Waste Treatment and Disposal	562219	S					S		S	S	

BOARD ACTION FOR ZONING TEXT AMENDMENT

Motion: McClammy **Seconded:** Edens

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

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

case data: n/a

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 000015-2015	Date	9/17/2015
Application Fee	\$ 250.00	Receipt No.	152377
Pre-Application Conference	9/11/2015	Hearing Date	PB 11/4/2015 BOC 12/14/2015

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Dallas Harris
Applicant's Address:	5385 Hwy 210
City, State, & Zip	Rocky Point, NC 28457
Phone Number:	772-579-1023

SECTION 2: UDO TEXT TO BE AMENDED

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

Section 5.2.3 — Sector 56 Administrative and Support
 @ Waste management & remediation services
 NAICS # 562219 - zoning District RA

Proposed Text to be added: P= Permitted

SECTION 3: SIGNATURE

Applicant's Signature	Date:
<i>Dallas Harris</i>	Sept 17/15

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
<input checked="" 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		Total Fee Calculation:	
Payment Method:	Cash: <input type="checkbox"/> \$ _____	Credit Card:	Check: <input checked="" type="checkbox"/> Check # _____
		<input type="checkbox"/> Master Card <input type="checkbox"/> Visa	
Application Received By:	<i>Megan O'Hare</i>	Date:	9/17/2015
Application completeness approved by:	<i>Megan O'Hare</i>	Date:	9/17/2015
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board: 11/4/2015	<input checked="" type="checkbox"/> BOC: 12/14/2015	

**REQUEST TO CHANGE NAICS # 562219 SECTOR 56 – SECTION 5.2.3 – DISTRICT
RA OF THE PENDER COUNTY UNIFIED DEVELOPMENT ORDINANCE FROM
NOT ALLOWED TO PERMITTED.**

This request would advance the public health, safety and welfare of the citizens of Pender County by providing more sites to dispose of non-hazardous material (trees, limbs, stumps, sod, grass, brush and other vegetative debris). This request would create more competition which would reduce the cost of disposal and provide shorter transportation costs and dangers.

This request is policed and regulated by NCDENR Division of Waste Management Solid Waste Section Raleigh North Carolina. You have to apply for a solid waste LCID form which is insured by NCDENER Division of Waste Management. NCDENER will determine the site location and size with buffer requirements, depth of ground water, floodplains, wetlands, archeological and historical sites, etc.