

INTRODUCED BY: Planning Staff DATE: January 8, 2008

ITEM NO: 6

Pender County Zoning Ordinance and Subdivision Ordinance Text Amendments

SUBJECT: Zoning and Subdivision Ordinance Text Amendments

ACTION REQUESTED: Consideration of a series of text amendments to the Pender County Zoning Ordinance and Subdivision Ordinance to slow the rate of growth in the county as instructed by the Pender County Board of Commissioners at the November 19, 2007 meeting.

HISTORY/BACKGROUND:

Description of Request: The request consists of amending the current Pender County Zoning Ordinance and Subdivision Ordinance in order to provide for increased staff and Board review periods, local traffic impact requirements, and lower densities in the Planned Development zone. At the November 19, 2007 meeting, the Pender County Board of Commissioners instructed planning staff to review methods to slow the rate of growth in Pender County. Subsequently, staff was asked to research the issue of height limits in the county. Staff has concluded that specific amendments are needed to accomplish these measures, and therefore have drafted a number of changes for consideration in addition to a summary of height limits in coastal areas. Specifically, the changes may affect the following ordinance sections:

Zoning Ordinance:

- Section 3.5 A Public Hearings
- Section 5.2 B Application
- Section 5.4 Action by the Board of Commissioners
- Section 9.14 Commercial (all non residential) Development Standards and Site Plan Review
- Section 15.2 Application and Fees
- Section 17.3 A (1) Applicant Action

Subdivision Ordinance:

- Minor Subdivisions – Approval Requirements
- Major Subdivisions – Submission Requirements and General Provisions, item 1
- Final Plat – Submission Requirements and General Provisions, item 1

Staff has included the net and gross densities of 5 Planned Developments that have been approved, along with the average of the densities. Definitions for Net and Gross Densities would be added to the Zoning Ordinance and Gross Density would be added to the Subdivision Ordinance. The PD District currently allows 12 units per acre; Staff requests guidance for target Net and Gross Densities, along with a consistent definition of both.

Staff has met with the NCDOT and the Wilmington Metropolitan Planning Organization (WMPO) to discuss how to amend the county ordinances to achieve the board's desires regarding Traffic Impact Analysis (TIA). It appears that the county can easily adopt a lower vehicle trip threshold that would trigger the requirement to conduct a TIA. However, the county would need a professional review of any TIA that is required outside the scope of the NCDOT requirements for a TIA. The WMPO has already agreed to review TIAs that fall within the MPO boundary. However, the county will need to contract with a transportation planning consultant to review TIAs that fall everywhere else within the county, outside of the WMPO boundary. County staff is currently pursuing this option, and will report an update at the next Planning Board meeting.

The document attached to this resolution contains the specific language that is proposed to be amended within the ordinances.

EVALUATION:

A) Public Notifications: Public Notice of the request for text change has been advertised in the Pender Post and Topsail Voice.

B) Planning Staff Recommendation to Planning Board: Planning staff has researched the directive given by the Pender County Board of Commissioners and has presented a series of options for board consideration. Specifically, staff recommends the adoptions of changes to extend all project deadline dates as specified as well as the changes to the Planned Development application process which would include a pre-submission meeting and a requirement for the applicant to hold a community meeting. Staff also recommends the adoption of language supporting pre-submission meetings for all subdivisions that are to be submitted to the Planning Board.

PLANNING BOARD RECOMMENDATION: The Pender County Planning Board is requested to hold a public hearing for a text amendment.

AMENDMENTS:

Planning Board

Motion: _____ **Seconded** _____

Approved: _____ **Denied:** _____ **Unanimous** _____

Walton ____ Reynolds ____ Garrett ____ Gonzales ____ Marshburn ____ Millette ____ Smith ____

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on January 22, 2007, the Pender County Board of Commissioners (approved, denied, modified) a text amendment to the Pender County Zoning Ordinance (section 8.9 table of permitted used), as described herein and J. David Williams, Chairman to the Board, is authorized to execute the order implementing this resolution and provide notice to the applicant of the action taken herein.

AMENDMENTS:

MOVED _____ **SECONDED** _____

APPROVED _____ **DENIED** _____ **UNANIMOUS** _____

YEA VOTES: Williams _____ Tate _____ Blanchard _____ Brown _____ Rivenbark _____

J. David Williams,
Chairman

1-22-07
Date

ATTEST

1-22-07
DATE

Zoning Ordinance

Section 3 – Administration

3.5 A Public Hearings

Any case involving an appeal or variance requires a public hearing to be held by the Board of Adjustment. Any case involving a change of zoning district classification, vested rights, or other zoning ordinance amendments, requires a public hearing before the Planning Board, which shall make recommendations to the Board of Commissioners.

The Planning Staff shall have a minimum of **forty-five (45) days** and a maximum of sixty (60) days to prepare any case for public hearing.

Section 5 – Changes and Amendments

5.2 B Application

An application for any change or amendment shall contain all the information deemed necessary by the Zoning Administrator, Planning Board or Board of County Commissioners and a description and/or statement of the present and proposed zoning regulation or district boundary, and the name(s) and address(es) of the owner(s) of the property involved as required by general statute. Such application shall be filed in the Planning Office no later than **forty five (45) days** prior to the meeting of the Planning Board at which the application is to be considered. **The applicant shall be required to schedule a pre-submittal meeting with Planning staff no later than thirty (30) days prior to submission to discuss the request. In cases of zoning map amendments, the applicant shall be required to hold a public meeting with the surrounding community in which the proposed zoning map amendment will be located. All known county community groups such as homeowners associations or other civic organizations shall be notified of the meeting. A written summary of this public meeting as well as a copy of the meeting sign in sheet shall be a required submission item.**

The applicant shall provide an accurate legal description or a map drawn to scale showing the property boundaries that are to be rezoned, in sufficient detail for the rezoning to be located on the Official Zoning Map

5.4 Action by the Board of Commissioners

Before taking such lawful action as it may deem advisable, the Board of Commissioners shall consider the Planning Board's recommendations on each proposed zoning amendment. If no recommendation is received from the Planning Board within sixty (60) days of submission to the Planning Board, the proposed amendment shall be deemed to have been approved. The Board of Commissioners shall call its own public hearing, but in any case the decision must be rendered within one hundred twenty (120) days after the decision of the Planning Board. **The proposed zoning amendment shall be placed on the Board of Commissioners meeting agenda no earlier than the month following the Planning Board decision.** The applicant, the Planning Board, and the Zoning Administrator shall be given written copies of the board's decision and the reasons therefore.

Section 9 – Supplementary District Regulations

9.14 Commercial (all non residential) Development Standards and Site Plan Review

All proposals for commercial development shall be submitted to staff, along with applicable items as described below, to staff for review. Planning Staff shall have at least thirty (30) days to review any commercial development proposal.

All commercial developments shall be designed and the site plans reviewed by the Zoning Administrator for compliance with the following development criteria.

Section 15 – Special Uses

15.2 Application and Fees

Applications for Special Use Permits, signed by the applicant, shall be addressed to the Board of Commissioners. A nonrefundable fee for such application shall be paid at the time of application according to Section 3 of this ordinance.

A completed application shall be submitted to the planning office no later than forty-five (45) days prior to the Board of Commissioners meeting at which the case is to be considered. The applicant shall be required to schedule a pre-submittal meeting with Planning Staff no later than thirty (30) days prior to submission to discuss the request.

Each application shall contain or be accompanied by such legal description maps, plans, and other information so as to completely describe the proposed use and existing conditions; and the following as stipulated by the Pender County Board of Commissioners and Zoning Administrator.

The applicant shall be required to hold a public meeting with the surrounding community in which the proposed Special Use will be located. All known county community groups such as homeowners associations or other civic organizations shall be notified of the meeting. A written summary of this public meeting as well as a copy of the meeting sign in sheet shall be a required submission item.

Section 17 - PD Planned Development District Requirements

17.3 A 1) Applicant Action

The applicant shall have a pre-submission meeting with Planning Staff at least (60) days prior to the submission of a complete Master Land Use Plan to allow for a complete staff review and recommendations for necessary changes to the plan.

The applicant shall be required to hold a public meeting with the surrounding community in which the proposed Master Land Use Plan will be located. All known county community groups such as homeowners associations or other civic organizations shall be notified of the

meeting. A written summary of this public meeting as well as a copy of the meeting sign in sheet shall be a required submission item.

The applicant shall submit the necessary copies of the Master Land Use Plan and supplementary materials to the Zoning Administrator at least (45) days before the regular meeting of the Planning Board at which the Master Land Use Plan is to be considered. The Zoning Administrator shall place the Master Land Use Plan on the agenda of the next regular meeting of the Planning Board and contact the Planning Board Chairman as to the receipt of the Master Land Use Plan and shall present the Planning Board with copies of said plan and materials.

If rezoning is a prerequisite of Planned Development approval, the Zoning Administrator will advertise for a public hearing and follow the standard zoning ordinance amendment requirements in accordance with Section 5, of the Pender County Zoning Ordinance. The rezoning process shall be fully completed prior to the submission of the Master Land Use Plan.

A file of all required information and any other pertinent material shall be kept in the Planning Office.

PD Density

The Pender County Zoning Ordinance currently defines the maximum density in PD as 12 Units per Acre (8.10 Schedule of District Requirements)

Here are examples of recent densities approved in PD.

<u>Lane's Ferry</u>	<u>East Haven</u>	<u>Avendale</u>	<u>St. George's Reach</u>	<u>Bayberry</u>
Gross: 5.4	Gross: 5.4	Gross: 2.3	Gross: 2.8	Gross .65
Net: 8.3	Net: 6.7	Net: 2.9	Net: 5.2	Net: 3.8

Average Density

Gross: 3.31
Net: 5.35

Staff requests guidance for target Net and Gross Densities, along with a consistent definition of both.

Net Density – shall be calculated as the total number of lots or units proposed for the development divided by the acreage in the development excluding the following areas:

1. Public and private streets
2. Required open space
3. Parking areas and their access, on non single family developments
4. Wetlands, Floodways, and Areas of Environmental Concern (AEC's) as defined
5. Utility easements adjacent to streets

Gross Density: shall be calculated as the total number of residential lots or units for the development divided by the TOTAL acreage in the development, not by phases or sections.

Subdivision Ordinance

MINOR SUBDIVISIONS (pg 20)

Approval Requirements:

Shall follow the same submission requirements and general provisions for major subdivisions.

MAJOR SUBDIVISIONS

Submission Requirements & General Provisions

1. Completed plats, application, fees and other required data must be submitted 45 days before a scheduled Planning Board meeting.

FINAL PLAT

Submission Requirements and General Provisions

1. The final plat shall be reviewed and approved or disapproved and notice of action taken provided to the applicant within 30 working days of completed submission. When the final plat is approved the signed original will be provided to the applicant and a signed copy placed in the Record File for subdivision.

Height Limits for Coastal Jurisdictions

Local Government	Height Limit
Pender County	35'
New Hanover County	35', 44' in VE flood zone
Brunswick County	40' base for residential, up to 10' increase with 1' additional property setback 50' base for multi-family and commercial, up to 75' with 2' additional property setback
Town of Chadbourn	35'
City of Whiteville	35'
Town of Boiling Spring Lakes	28' one story, 42' two story
Town of Caswell Beach	35' or 26' above BFE
City of Southport	40'
Town of Surf City	48', 55' commercial, 60' with SUP on urban waterfront and mainland
Town of Ocean Isle Beach	31'
Town of Oak Island	35', 41' in VE flood zone
City of St. James	40'
Town of Navassa	35'
Town of Burgaw	35' industrial, 45' industrial
City of New Bern	35', 35-50' with SUP, above 50' with CUP in waterfront overlay districts
Town of Beaufort	35'
Town of Kitty Hawk	35' with one zoning district allowing hotels up to 76'

*Data provided by North Carolina Planning List Serv