



MINUTES

Pender County Planning Board Meeting
April 6, 2010 Special time @ 6:00 p.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Reynolds

Roll Call: Chairman Reynolds

Pender County Planning Board Members:

Reynolds Garrett Marshburn Millette Smith Williams Boney

- 1. Adoption of the Agenda:** Motion to approve adoption of agenda made by M. Boney. Seconded by B. Millette. Vote passed 6-0. (Board member Garrett not present at time of vote)
- 2. Approval of Minutes: March 2nd and 11th, 2010 meetings:** Motion to approve minutes for March 2nd and 11th made by H. Williams. Seconded by W. Marshburn. Vote passed 6-0. (Board member Garrett not present at time of vote.)
- 3. Public Comments:** Chairman Reynolds opened the floor for public comments for agenda item #4. Chairman Reynolds closed the floor after no response for public comments for agenda item #4.

6:00PM

4. Subdivision Review: Preliminary Plat

The applicant John Benson, on behalf of the property owner, D&J Properties of Hampstead, LLC, is requesting Preliminary Plat Approval for a 29 Lot Subdivision to be located along Harrison Creek Road and Island Creek Road.

Planner Ashley Frank presented subdivision review for preliminary plat and reviewed comments by the TRC (Technical Review Committee) with Board members. Planner Frank explained that subdivision consisted of two phases. Phase 1 would contain lots 1-7 and Phase 2 would contain lots 8-29. There were no questions from the Board for Planning staff regarding presentation.

Mr. John Benson, applicant on behalf of property owner and surveyor for subdivision, was called upon for questions from the Board. Board member Williams questioned whether Mr. Benson had any problems with the comments made by the TRC. Mr. Benson commented that the suggestion of "stubouts" within the subdivision posed concerns. Mr. Benson commented that the "stubouts" weren't useful because there's nowhere for the "stubouts" to go except into the wetlands. Director Davenport commented that crossing into the wetlands is not being

encouraged. Director Davenport explained that this is a standard comment made by Wilmington MPO. Board members addressed concerns regarding pedestrian easement, static pressure fire hydrants, open space and the use of the 4 acres in reserve within the subdivision. Discussion between Board member, Attorney Thurman, Mr. Benson, and Planning Director Davenport commenced regarding the aforementioned items. Mr. Benson requested permission to record the first phase. Board members agreed that the first phase could be recorded, but the plat being presented is what the Board is being considered and anything different from what is being presented would have to come back before the Board. Chairman Reynolds explained to Mr. Benson that if the 4 acres in reserve should ever be subdivided, the subdivision will need to be approved by the Planning board. Motion made by Board member Williams to approve subdivision as presented; seconded by Board member Boney. Vote passed 6-0. (Board member Garrett not present for vote.)

5. Discussion Items presented by Director Davenport were as followed:

- a. Planning board meeting for the month of May will be held on May 5th not May 4th due to elections.
- b. Parks & Recreation Master Plan will be presented to the Planning board at the June 8th Planning board meeting.
- c. The Unified Development Ordinance is still on schedule to be adopted to July 1st. Planning staff will present Land Use Development Plan, Unified Development Ordinance and Park & Recreation Master Plan to the Board of County Commissioners' at the last B.O.C.C. meeting in June.
- d. Completion of the Unified Development Ordinance is 99.8% completed and requested that the current draft of the U.D.O. be forwarded to the B.O.C.C.
- e. Upcoming project for Planning Department: Countywide Historical Structure & Landmark survey. Focus will be on the unincorporated areas of Pender County.

Discussion Items presented by Planning board members were as followed:

- a. Board member Garrett wanted clarification on water sources regarding mandatory connections to water systems. Director Davenport this remains unclear until Utilities Ordinance is in place.
- b. Board member Williams wanted clarification as to what happens procedurally after tonight regarding the U.D.O. Director Davenport reviewed with Board members the remaining schedule for adoption of the U.D.O.

Discussion Items presented by County Attorney Trey Thurman were as followed:

- a. Consideration as to how to deal with public owned water and sewer facilities; suggested defining public owned utilities in the U.D.O.
- b. Clarify how to handle submitted applications in process prior to effective date of U.D.O. What will be considered as a complete application or entitlement to vested rights?
- c. Miscellaneous Uses in the table of permitted uses: Attorney Thurman commented that this area in U.D.O, needed to be looked at again to see if there were ways to clear up any potential loop holes.
- d. Temporary Events: Attorney Thurman suggested establishing a time frame for what is considered a temporary event.

6. **Public Hearing (7:00 pm):** Recommendations on adoption of the 2010 Unified Development Ordinance (UDO) and supplementary zoning map revisions: Chairman Reynolds opened the floor to public comments regarding recommendations or comments to the 2010 U.D.O. and closed after last attendee James Oakwind, Jr. provided his comments. Numerous attendees had suggestions and recommendations regarding the U.D.O. Among the attendees who commented was Elizabeth Schoenleber (Executive Director, Greater Hampstead Chamber of Commerce), Charles Wilson (Member of Highway 17 Citizens' Overlay Committee), and Toni Castoro (Secretary, Coastal Pender Business Alliance) who also submitted documentation to Planning board members, Planning staff, and County Attorney (See Exhibits 1-3). The majority of the comments and concerns were related to Article 9 (Signs), Hwy 17 overlay and solid waste collection sites. It was the consensus that signage is a great mechanism of advertisement for any business in the current economy; therefore, utilization of temporary signs should be less restrictive.

Changes to make to U.D.O. were agreed upon by Planning board members were as followed:

- a. **Policy 9.5.1C.1:** Accept language submitted by G.H.C.O.C., however, remove the last sentence of the recommendation and replace the word "total" with "calendar". (See yellow highlighted section of Exhibit 1)
- b. **Policy 9.5.1C.1a:** Accept language submitted by G.H.C.O.C., however, remove the last sentence of the recommendation and replace the number "30" with "10" and replace the word "consecutive" with "calendar". (See green highlighted section of Exhibit 1)
- c. Maximum sign height shall be 25' for all districts.
- d. **Policy 9.11. (I):** Accept language submitted by G.H.C.O.C., however, remove the words "operable or" and delete the last sentence. (See pink highlighted section of Exhibit 1)
- e. **Policy 9.11.i.b.:** Define intermittent. Board suggests 2 minutes or less.
- f. **Policy 3.6.4:** Change the word "dedicate" to "reserve".
- g. **Sector 56 in Table of Permitted Uses:** Specifically 562111 Private waste haulers. Planning staff to provide update.
- h. **Policy 2.3.2.b:** Remove final action for vested rights and bring before the Board of Adjustments.

7. **Adjournment:** Chairman Reynolds adjourned meeting at 10:20 p.m.

**Attachments: Exhibit 1
Exhibit 2
Exhibit 2**

#1

Exhibit 1

April 6, 2010

Mr. Patrick Davenport, AICP
Planning Director
Pender County
P.O. Box 1519
Burgaw, NC 28425

Subject: Pender County Unified Development Ordinance

Dear Patrick:

The Greater Hampstead Chamber of Commerce (GHCOC) is a non-profit corporation organized as a "For Membership" organization and operates for the benefit of its membership and to serve those general purposes as more specifically defined by its members and Board of Directors. The Mission of the GHCOC is to enhance the quality of life of the citizens of the Greater Hampstead area through the promotion of business, economic development, and tourism of the Greater Hampstead area and surrounding communities. In pursuing this Mission, the Chamber shall endeavor, where appropriate, to coordinate its activities with other organizations, individuals and agencies having the same general interests and objectives.

In accordance, the GHCOC formally submits the following comments in response to the DRAFT Pender County Unified Development Ordinance:

ARTICLE 1: GENERAL PROVISIONS

Policy 1.11.3: Transitional Provisions: Applications in Progress before Effective Date - Applications for building permits, variances, special use permits and other similar development approvals that were submitted in complete form and are pending approval before the effective date of this Ordinance must be reviewed wholly under the terms of this Ordinance as specified in Article 3.

(GHCOC COMMENT) Article 3 is the methodology for all zoning and building permit applications for property in Pender County. This provision could and probably would allow unconstitutional ex post facto application of the new ordinance to applications submitted under the old ordinance. The United States Constitution and the North Carolina Constitution have been construed to prohibit "Ex Post Facto" laws; that is making something illegal today, which was legal yesterday and punishing someone for doing something which was legal at the time it was done. The GHCOC would urge the County use the following statement instead.

Policy 1.11.3: Transitional Provisions/Applications in Progress before Effective Date - Applications for building permits, variances, special use permits and other similar development approvals that were submitted in complete form and are pending approval before the effective date of this Ordinance are not subject to the terms of this Ordinance. Any re-application for an expired approval must meet the standards of this Ordinance in effect at the time of re-application.

ARTICLE 4: ZONING DISTRICTS

Policy 4.12.4 TC-17 Transportation Corridor Overlay - U.S. Highway 17 (Refer to Document for entirety of Policy)

(GHCOC COMMENT) As stated, the Intent of this Policy is as follows: Major Thoroughfares have unique traffic management needs, developmental pressures, and aesthetic characteristics that require the establishment of additional developmental standards to meet the County's goals and fulfill the purposes of this ordinance. Yet, within this policy, traffic management needs are never addressed. As safety should be

Erin D. J.

the primary purpose of any Transportation Corridor Overlay District policy, this is highly disappointing and misleading. The only issues addressed within this policy are aesthetic, and therefore not only is this a misnomer, but the issues of equal protection and uniform applicability within the scope of zoning enforcement are questionable at best as this policy is written. Giving special treatment to non-special areas for the purposes of aesthetics may put the County in a very vulnerable legal position. Neighboring counties with TC Overlay districts are not nearly so restrictive. GHCOOC recommends further work on this policy by the County is on sound legal ground within the scope of zoning enforcement on the issues of equal protection and uniform applicability.

ARTICLE 9: SIGNS

Policy 9.4H Exemptions - Interior Window Signs located on the interior of the windows and with a total area not exceeding 1/2 square foot per lineal foot of the building front wall space.

(GHCOOC COMMENT) The first amendment protects these rights of free speech, particularly within one's own building, therefore recommend deleting this policy section.

Policy 9.5.1C.1: Signs Not Requiring Zoning Approval/Other Temporary Signs - One sign, including portable signs and banners, for promotional purposes by an individual business may be displayed on the premises for a period not to exceed forty-five (45) consecutive days during each calendar year, with a maximum total size of (60) square feet.

(GHCOOC COMMENT) The use of temporary signs is critical in order for businesses to survive and prosper. Policy is too restrictive and use of the words "one sign" and "consecutive" make it almost functionally impossible for businesses to utilize temporary signage at different times of the year for the purposes of seasonal sales, specials, etc. The GHCOOC would urge the County use the following statement instead.

→ **Policy 9.5.1C.1: Signs Not Requiring Zoning Approval/Other Temporary Signs** - Signage, including portable signs and banners, for promotional purposes by a business may be displayed for a period not to exceed ten (10) total days during each month, with a maximum total size of (60) square feet, with the restriction that these signs are limited to sixty (60) square feet. Signs having tears and over 20% color loss will not be allowed under this provision.

Replace "total" with "calendar." / Delete last sentence.

Policy 9.5.1C.1a: Signs Not Requiring Zoning Approval/Other Temporary Signs - Shopping Centers and multi-tenant developments may utilize one banner, for promotional purposes which may be displayed. Such banner shall be affixed to the development's existing, permanent, free-standing sign and shall be displayed for no more than thirty (30) consecutive days per tenant. Each tenant is allowed this provision once per calendar year. The maximum allowable square footage shall be sixty (60) square feet.

Replace the number 30 w/ number "10"; replace "consecutive" w/ calendar.

(GHCOOC COMMENT) Policy attempts to regulate signage owned by property owner/developer. This would be an absurd attempt at private ownership regulation by the County. The GHCOOC would urge the County use the following statement instead.

Policy 9.5.1C.1a: Signs Not Requiring Zoning Approval/Other Temporary Signs - Shopping Centers and multi-tenant developments may utilize one banner, for promotional purposes which may be displayed. Such banner shall be affixed to the development's existing, permanent, free-standing sign and shall be utilized at the discretion of the Shopping Center owner. The maximum allowable square footage shall be sixty (60) square feet.

Policy 9.7.B: Signs Approved in the Commercial and Mixed Use Districts and Non-residential Uses in the Residential Districts/Sign Height - The maximum height of signs described in this section shall be twenty-five (25') feet.

(GHCOC COMMENT) Recommendation to retain the current code of thirty (30) feet.

9.9.3 Shopping (multi-unit commercial) Center Signs, Malls, Strip Malls and Office, Business & Industrial Parks/Buildings/Free Standing Signs - If a Shopping Center, Mall, Strip Mall, Office, Business & Industrial Park does not utilize a multi-unit free standing sign, each principal structure in the development will be allowed to have one free standing sign, advertising tenants or activities in that structure only. Such sign shall not exceed 32 sq. ft. in area, 10 ft. in height and not be closer than 20' to any street right of way or 10' to any parking or access way or structure. The sign and structure for which the sign is erected shall be on a separate lot in the development or the sign shall be within 30' of the front entrance of the structure.

(GHCOC COMMENT) Policy too restrictive and will have difficulty applying to all Shopping Center, Strip Malls, etc. that do not utilize a multi-unit free standing sign. The GHCOC would urge the County use the following statement instead.

9.9.3 Shopping (multi-unit commercial) Center Signs, Malls, Strip Malls and Office, Business & Industrial Parks/Buildings/Free Standing Signs - If a Shopping Center, Mall, Strip Mall, Office, Business & Industrial Park does not utilize a multi-unit free standing sign, each principal structure in the development will be allowed to have one free standing sign, advertising tenants or activities in that structure only. Such sign shall not exceed 32 sq. ft. in area, 10 ft. in height, and not be located closer than 5' to any street right of way.

Policy 9.11.1(D): Prohibited Signs - Signs on parked ~~operable or~~ inoperable vehicles or trailers visible from the public right of way where the primary purpose of the vehicle parked at that location is to advertise a product or service or to direct people to a business or activity on the same or nearby property. For the purposes of these regulations, vehicular signs include business logos, identification or advertising on vehicles. ~~The length of time a vehicle is present in a location, or the repeated presence of a vehicle in a location shall raise a presumption that its primary purpose is to serve as a vehicular sign.~~

Remove words "operable or" and delete the last sentence.

(GHCOC COMMENT) This provision is highly suspect as a violation of the first amendment's freedom of expression. The primary purpose of business owners utilizing the parking lot of their place of business on Highway 17 for parking their operable vehicles – business or other - is just that: parking. They have the right to advertise on their vehicles while they are on the road or parked at their business location. The County would have a difficult time proving that the primary purpose of parking a business vehicle is not parking. The GHCOC would urge the County use the following statement instead.

Policy 9.11.1(D): Prohibited Signs - Signs on parked inoperable vehicles or trailers visible from the public right of way where the primary purpose of the vehicle parked at that location is to advertise a product or service or to direct people to a business or activity on the same or nearby property. For the purposes of these regulations, vehicular signs include business logos, identification or advertising on vehicles. The length of time a vehicle is present in a location, or the repeated presence of a vehicle in a location shall raise a presumption that its primary purpose is to serve as a vehicular sign.

Additionally, the GHCOC Would like to see the following policy added to enhance this section:

Policy 9.14: Special Use Permit for Off-Premise Business and Directional Signs in Residential Districts and General Business Districts – A business owner may apply for a Special Use Permit for an off-premise business or directional sign in a Residential District or General Business District in accordance with and with written permission of the property owner on which the sign shall be placed. Such sign shall not exceed 32 sq. ft. in area, 10 ft. in height, and not be located within any street right of way.

APPENDIX A – DEFINITIONS: SIGN: Any object, device, display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

(GHCOC Comment) Definition is unconstitutionally overboard. Advertisements on the internet, by definition, are included. Cars and trucks would also be included under this definition. The County has no power to regulate signs on a vehicle in general. The first amendment right of free speech protects these signs. The GHCOC would urge the County use the following definition instead.

APPENDIX A – DEFINITIONS: SIGN: Any non-movable object - including an inoperable vehicle - device, display, or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

The GHCOC appreciates the opportunity to comment on the DRAFT Pender County Unified Development Ordinance. If you have any questions about these comments, please feel free to give me a call at 910.270.9642.

Sincerely,

Elizabeth Schoenleber
Executive Director, GHCOC

#2

Exhibit 2

Comments of Charles Wilson, Member Highway 17 Citizens Overlay Committee
Relative to the Highway 17 Overlay Corridor Section (4.14.4)
Of the Draft Unified Development Ordinance
Before the April 6, 2010 Pender County Planning Board Public Hearing

My name is Charles Wilson. I am a resident of Hampstead and served as a member of the Highway 17 Overlay Citizens Committee. I am here to endorse the unanimous recommendations of the citizens committee and to share with you changes that I believe need to be made to the current draft of the proposed UDO ordinance in order to make it consistent with the intent of the 13 member citizens committee.

First, I believe it is important to share with you some background on the creation of the Highway 17 overlay committee and the thorough process that was utilized in developing the recommendations. A summary follows:

Process utilized in developing the overlay district recommendations:

- The Planning Board under the leadership of Mark Walton and the Board of Commissioners unanimously approved the creation of a citizens committee to develop recommendations for the creation of a Highway 17 commercial Overlay District. Thank you for your support.
- Then planning director Joey Raczkowski publicly supported the creation of the citizens committee and the creation of an overlay district. He noted that such districts are particularly useful in large and very diverse counties such as Pender.
- Prior to the creation of the citizens committee, a public information session was held by the Pender County Planning Department on November 15, 2007 at the Topsall High School. In an extremely well attended session, attendees were informed of the purpose of the effort; input was sought and a sign-up was provided for those interested in being named to the citizens committee. See attachment A.
- Prior to the public information session, Mr. Raczkowski sent his staff to visit with most business owners along the highway 17 corridor to educate them about the effort and to invite them to the public session. An excellent representation of business and residents attended the session.

Page two:

- The Board of Commissioners appointed the 13 member citizens committee. The commissioners were careful to insure that citizens representing all views in eastern Pender County were represented on the citizens committee. These included individuals who were representative of business, residents, leaders of the anti-incorporation and pro-incorporation effort and more.
- The planning board asked the BOC to appoint the two members of the planning board representing eastern Pender County to the citizens committee. These included Karen Gonzales and Burt Millette. They were so appointed.
- The citizens committee was chaired by staff of the Cape Fear Council of Governments at the request of the Planning Department.
- The citizens committee agreed that the committee recommendations would impact future commercial development and redevelopment and that the recommendations would not impact existing development. This was an issue of fairness.
- The citizens committee agreed that recommendations would be based on consensus meaning that a recommendation would not be included if there was a negative vote. All recommendations by the citizens committee were adopted in this manner.
- Approximately one year of deliberations was taken by the citizens committee in developing its recommendations. Reviewing the "best practices" utilized in other overlay districts and similar commercial corridors in other jurisdictions was the process utilized by the committee as the basis for discussion and decision.
- The recommendations of the Highway 17 Overlay District Citizens Committee were adopted without objection by any committee member. In short, 100% consensus was achieved.

Page three:

What will the citizens committee's recommendations achieve?

It has long been recognized that unattractive run-on, hodge-podge commercial development in urban and suburban strips results in a loss of a sense of community for residents and a less robust commercial area for business owners. In short, the development of a less cluttered and more uniformly attractive commercial area is a win-win for both residents and business people alike. Hundreds of communities throughout the country have addressed the harmful effects of faceless "run on development" with better standards that have improved the quality of life for residents and the economic health of their commercial areas. The creation of the Improved standards for new commercial development along the Highway 17 corridor in Pender County will achieve what similar provisions have achieved in so many other communities throughout the southeast and elsewhere. It would be a virtual sin for us not to implement what we know has worked elsewhere with such positive effect. In addition to the clear benefits of a stronger sense of community for residents and a stronger commercial area more attractive to customers a number of other benefits typically result. These include increased property values, and improved tourism. Since Highway 17 is the gateway to our coastal beaches, a more attractive gateway will help attract more tourists to Surf City and our other beaches with the resulting spin-off benefits to businesses on the highway 17 corridor. **What other program can you name that costs almost nothing to implement yet results in the above economic and quality-of-life benefits for our citizens?**

Modifications needed to the Planning Board UDO draft relating to the Highway 17 Overlay District:

First, a personal thank you to those of you who serve on the planning board and those who have served on the UDO and land use committees that have resulted in the product we have before us today. The totality of the extensive effort will help move our county forward. As it relates to the section of the UDO relative to the Highway 17 Overlay District I believe there are five changes that need to be made to the planning board draft to bring the document into compliance with what I believe is the clear intent of the citizen committee recommendations. These changes are as follows:

Page four:

1. Out parcel standards needs to be reinserted into the final UDO language :

The citizens committee adopted the provision contained in the Surf City site design standards addressing out parcels but this language is not included in the current UDO draft. The language, which was adopted by the citizens committee follows:

"Development of outparcels shall be done in a manner that incorporates architectural materials and elements used in the principal building(s). Individual lots that are developed and are not out parcels of a development are encouraged to follow these design guidelines."

Why is this issue important? Many shopping centers have out parcels that are a part of a proposed commercial development. If an out parcel such as a gas station for example is not done in harmony with the main commercial center it severely impacts the total harmonious effect intended to be achieved. This is because the out parcel is closer to the road and more visible than the shopping center itself. A good example of a building on an out parcel that is harmonious with the bigger center is the Shell gas station in Rocky Point at the corner of Highway 117 and Highway 210. The attractiveness of the station is a pleasure to residents while strengthening the attractiveness of the shopping center for customers. Two current sites along the Highway 17 corridor with as of yet undeveloped out parcels include the shopping center where the Food Lion is located in Hampstead as well as the proposed Lowes Foods shopping center in front of Olde Point on Highway 17. There will be many future such sites.

Request: The above referenced language as recommended by the citizens committee should be added back into the final version of the UDO.

Page five:

2. Architectural design standards should apply to any new commercial development with four or more retail units.

The recommendation of the citizens committee is to have the architectural façade and related standard apply to shopping center, mall and big box centers above 15,000 square feet and/or **four (4) or more units**. The draft UDO only includes the 15,000 square foot standard but does not include the "4 or more units" provision.

Why is this important? Adding the provision that four or more units would fall under the architectural standards provisions of the overlay ordinance is important because it closes a loop hole that would allow someone to build a strip center at just under 15,000 square feet to avoid the requirements. More to the point, virtually all of the existing strip centers and shopping centers along the Highway 17 corridor in Pender County with one exception are less than 15,000 sq. ft. Almost all range from 6,000 sq. ft. to 10,000 sq. ft. In light of this fact, by limiting the architectural standards to only new shopping centers above 15,000 sq. feet it will be virtually impossible for the goals of the Highway 17 corridor to be achieved. Clearly a strip center or shopping center with four (4) or more units is large enough so that the standards should apply even if the commercial development is less than 15,000 square feet. For example, the most recently opened strip center in Hampstead is only approximately 6,500 sq. ft. but it would meet the proposed standards. Clearly we are not asking too much.

Request: Language recommended by the Highway 17 citizens committee should be added back to require that a shopping centers or strip centers, etc. with four (4) or more units are also required to meet the architectural and related standards of the Highway 17 Overlay District.

Page six:

3. A BETTER STATEMENT OF PURPOSE for the Overlay District's architectural standards is important to include:

Why is this important? The brief statement outlining the intent of the "Transportation Corridor Overlay – U.S. Highway 17" fails to convey in any meaningful way the reason the new standards are being established and what is hoped to be achieved. Including such a statement helps developers understand what is desired and thus helps achieve the goals for the overlay. I have attached one example from the recently adopted Brunswick County UDO that provides the language that they used for a similar purpose as well as an example from New Hanover County (attachment B). Numerous other examples are available. The citizens committee tried to keep it simple by recommending language that stated that the goal was to achieve an appearance along the commercial corridor that was "historically found in an upscale community." This is a short hand term commonly used and generally understood. It was also the essential language that Surf City included in their code. Their language refers to "architecture styling and scale that is historically found in an upscale coastal community." This language should not be considered as sacrosanct, however, and other language could be utilized.

Request: Add one additional sentence to the "Intent" section of 14.4.4 A to read as follows:

"The county's goal in instituting the architectural standards provided in this section is to create an attractive commercial corridor that will create a stronger quality of life for residents as well as an improved business climate by making the corridor attractive to customers."

4. Utilities related to future commercial development along the Highway 17 corridor should be underground:

The highway 17 citizens committee included language from the new Surf City Non-residential facade and site design standards that "all new utility lines, including but not limited to electric, telephone and TV cables shall be placed underground. The current planning board draft removes this important provision.

Page seven:

Background: Above ground utility, telephone lines and cables placed near the edge of the highways have been increasingly recognized as a key component of the "clutter" that makes commercial areas unattractive. The unattractive areas of Market St. highlight this problem. Many other communities have required new commercial development in specifically designated commercial areas to have their utilities placed underground. Also, in Brunswick County for instance ALL Planned Unit Developments (PUD) must have underground utilities. In addition, some commercial developers have done so on their own recognizing that a more attractive environment attracts customers. An example of this is the area on both sides of Military Cutoff including but not limited to Mayfaire. Also, take a look at the approximately 2 miles on Highway 17 heading south from Porters Neck Rd. on Highway 17. You will note the "lack of visual clutter" resulting from the fact that the signs are uniformly low (under 10') and the utilities have been placed above ground but behind the commercial areas on this strip. Incidentally, I had my own electric and cable lines placed underground when I had my home built in Hampstead in 2006 as did my neighbor. Progress Energy was most cooperative.

Request: ReInstitute the language recommended by the Highway 17 Overlay District citizens committee requiring that the electric and other lines required for future commercial development along the Highway 17 corridor falling under the standards be placed underground. Alternatively, require that the electric lines for future commercial development either be placed underground OR above ground but behind the development.

5. The accessory structures language in the current draft of the UDO needs to be clarified:

The Highway 17 citizens committee included language to require that all accessory buildings associated with the strip malls, shopping centers, etc. that fall under the architectural standards section of the Highway 17 Overlay District "shall be of materials that are visually compatible in appearance with the principle structure." This does not mean identical materials, just materials that are "compatible" in appearance.

Concern: The language in the draft UDO section dealing with the Highway 17 Overlay moves in the opposite direction. Section 4.14.4 1b specifically exempts from the above requirement "accessory structures as defined in section 2, less than 600 square feet." It gets even more confusing, however, because Section 4.14.4 4d of the draft provides that "all accessory buildings shall be of materials that are visually compatible in appearance with the principle structure."

Page eight:

Request: Clarify the conflicting language to make clear that accessory structures of both greater than and less than 600 square feet must use materials that are "visually compatible in appearance with the principle structure."

Conclusion

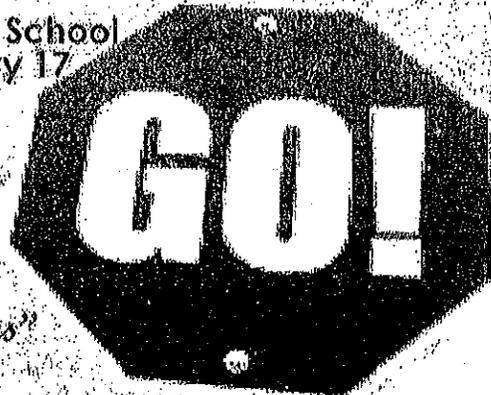
The cumulative impact of the weakening changes made to the citizens committee's unanimous recommendations are significant and will make it harder to achieve the goals intended for the Highway 17 Overlay District. Thank you for considering the above recommended modifications to the current draft of the UDO related to the Highway 17 Overlay District.

US HWY 17 CORRIDOR OVERLAY

WHAT: Open House Discussions on Existing & Future Land Use, Architectural Aesthetics and Access

WHEN: Thursday November 15, 2007
6 to 8 PM

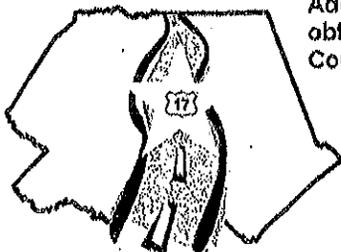
WHERE: Topsall High School
17445 US Hwy 17
Hampstead



*"US Highway 17 -
Connecting Communities"*

Goals for this open house:

- Provide you with project information
- Review existing transportation conditions along the Hwy 17 corridor
- Discuss Future Plans



Additional information may be obtained through the Pender County Planning Department @ [910.259.1202](tel:910.259.1202)

In cooperation with Pender County Planning Department, Cape Fear Council of Governments, Town of Surf City, NC Department of Transportation & The Citizens of Pender County.

Examples of Descriptive General Purpose Language

1.

6.4 LARGE SCALE COMMERCIAL

Brunswick County

6.4.1. General Purpose and Intent

- A. The purpose of this Section is to supplement development standards elsewhere in these zoning regulations with specific criteria that apply to the design of certain commercial buildings and projects,
- B. The County's goal is to create and maintain a positive ambience and community image and identity by providing for architectural and site design treatments that will enhance the visual appearance of certain commercial development and the quality of life.
- C. The applicable commercial development depends on high visibility from public streets. In turn, design of certain commercial buildings and sites determines much of the image and attractiveness of the streetscapes and character of the community. Massive, duplicative or generic projects that do not contribute to, or integrate with, the community in a positive manner can be detrimental to a community's image and sense of place.
- D. This Section incorporates a basic level of architectural design which, in conjunction with site design, landscaping, lighting and sign treatments located elsewhere in this Ordinance, is intended to result in a comprehensive scheme for building design and site development. However, this Section is not intended to require any specific style of architecture.
- E. This Section is also intended to:
 - 1. Promote high standards in architectural design and the construction of creative, innovative, aesthetically pleasing structures;
 - 2. Encourage landowners, designers and developers to look closely at local conditions and the development site, and produce new development that enhances and complements both the built and natural environment;
 - 3. Ensure that development and building design is sensitive to the specific site, consistent with the existing and proposed character of the area, including residential and nonresidential uses in the surrounding area, and does not detract from the positive elements existing neighborhood characteristics.

8-18

2/24/2010

Unified Development Ordinance
Brunswick County, North Carolina

2.

Section 59.6: Special Highway Overlay District
(2/3/86)

New Hanover County

59.6-1: Purpose - The purpose of the Special Highway Overlay District (SHOD) is to protect the natural beauty and scenic vista that exists along Interstate Highways and other specially designated roadways that serve as major access ways and gateways into New Hanover County. Protection of these roadways is important and necessary to maintain and preserve the County's undisturbed roadsides that are characterized by their natural woodlands and open spaces. The continued protection of these scenic highways is also a valuable asset to the County's tourism economy and enhances the attractiveness of the area for trade and investment.

Exhibit 3

#3

Coastal Pender Business Alliance

April 6, 2010

Subject: Pender County Unified Development Ordinance

The Coastal Pender Business Alliance (CPBA) is a non profit organization of members encompassing unincorporated Pender County, North Carolina. The CPBA is made up of small business owners engaging in economic development through land ownership, professional, retail and wholesale services. **Our goal is to support locally owned businesses and advocate for an environment conducive to member success.**

CPBA submits the following comments to the 2010 Pender County Comprehensive Land Use and Unified Development Ordinance.

5.2.4 The Table of Permitted Uses contains all of the provisions controlling uses in the various districts.

Reference page 68, Sector 56

Comment: Of particular note is government solid waste haulers are permitted in virtually all districts, while private waste haulers are only permitted in GI. This is questionable legally on equal protection and due process grounds. What makes government solid waste haulers acceptable throughout the county, while private solid waste haulers are limited to General Industrial districts of which the county only has 3 or 4 tiny ones? Is there something magic about government trash that makes it stink less?

Recommendation: All waste haulers should be permitted in all zoning like public solid waste.

9.4 Exemptions

Reference page 135

"9.4.H. Interior Window Signs located on the interior of the windows and with a total area not exceeding 1/2 square foot per lineal foot of the building front wall space."

Comment: The first amendment protects these rights of free speech, particularly within one's own building.

Recommendation: Delete this section.

9.5.1. C.1 & 9.5.1. C.1.A. Other Temporary Signs

Reference page 135

"C.1.) One sign, including portable signs and banners, for promotional purposes by an individual business may be displayed on the premises for a period not to exceed forty-five (45) consecutive days during each calendar year, with a maximum total size of (60) square feet."

"C.1.A.) Shopping Centers and multi-tenant developments may utilize one banner, for promotional purposes, which may be displayed. Such banner shall be affixed to the development's existing, permanent, free-standing sign and shall be displayed for no more than thirty (30) consecutive days per tenant. Each tenant is allowed this provision once per calendar year. The maximum allowable square footage shall be sixty (60) square feet."

Comment: This precludes a business from advertising sales at special times of the year. Examples: Christmas, Easter, Fourth of July, Memorial Day, Presidents Day, Labor Day, and other specific days set aside for sales. Further, a business such as a restaurant may run a weekend special or a daily special for a couple of days as a means of gaining business.

Since signs are the lifeblood of business, it seems that more latitude needs to be given business establishments for temporary signs. All types of businesses zones should be treated equally. It is felt that the following statement concerning the time frame or extension of ability to place signs should read as follows:

Recommendation: Delete (9.5.1. C.1. and C.1.A) and replace with the following:
One sign, including portable signs and banners, for promotional purposes by any business may be displayed for a period not to exceed ten (10) days during each month with the restriction that these signs are limited to sixty (60) square feet, not be torn, and not have 20% color loss.

9.7 Signs Approved in the Commercial and Mixed Use Districts and Non-residential Uses in the Residential Districts

Reference page 137

"B) Sign Height: The maximum height of signs described in this section shall be twenty-five (25) feet."

Recommendation: Retain the current code of thirty (30) feet.

9.9 Shopping (multi-unit commercial) Center Signs, Malls, Strip Malls and Office, Business & Industrial Parks/Buildings

Reference page 138

"9.9.3 Free Standing Signs: If a Shopping Center, Mall, Strip Mall, Office, Business & Industrial Park does not utilize a multi-unit free standing sign, each principal structure in the development will be allowed to have one free standing sign, advertising tenants or activities in that structure only. Such sign shall not exceed 32 sq. ft. in area, 10 ft. in height and not be closer than 20' to any street right of way or 10' to any parking or access way or structure. The sign and structure for which the sign is erected shall be on a separate lot in the development or the sign shall be within 30' of the front entrance of the structure."

Comment: Limited advertising generates limited revenue and possible higher property taxes.

Recommendation: Delete this section.

9.11 Prohibited Signs

Reference page 138

"9.11.1.l) Signs on parked operable or inoperable vehicles or trailers visible from the public right of way where the primary purpose of the vehicle parked at that location is to advertise a product or service or to direct people to a business or activity on the same or nearby property. For the purposes of these regulations, vehicular signs include business logos, identification or advertising on vehicles. The length of time a vehicle is present in a location, or the repeated presence of a vehicle in as location shall raise a presumption that its primary purpose is to serve as a vehicular sign."

Comment: This provision is highly suspect as a violation of the first amendment's freedom of expression and Interstate Commerce Commission regulations. It appears to be aimed specifically at inoperable vehicles. I would advise notifying the county that the primary purpose of parking on Highway 17 is to park your trucks. You have the right to advertise on your vehicles while they are on the road and the county has no power to prohibit it.

Recommendation: Delete operable strike last two (2) sentences due to the reason you park is to park.

Appendix A Definition

Reference page 164

"SIGN: Any object, device, display or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images."

Comment: Unconstitutionally overbroad. I am told that the county has no power to regulate signs on truck in general. Gas pumps, flowers, advertisements on the internet, cars and trucks are included by this definition. The first amendment right of free speech protects these signs.

Recommendation: Sign: Any non-movable object - including an inoperable vehicle - device, display, or structure or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

4.12.4 Conditional Zoning Districts TC-17 Overlay

Reference page 54

Comment: Requiring an overlay on Highway 17 for aesthetics in only one region of Pender County is unfair. There are no special purposes for example: historic districts, flood zones or airports along the entire length of Highway 17 which would trigger the need for an overlay. Why should this be the only Highway in Pender County that should look more aesthetically pleasing than the rest of the county? This overlay should be applied county wide or not at all.

Furthermore, the architectural design standards for larger buildings on Highway 17 would make the costs much higher that the small business owner could not possibly build their proposed building. This would result in less tax dollars generated for the county.

Recommendation: Apply this county wide.

Coastal Pender Business Alliance

Ron Shirley President ronshirley4@gmail.com (910) 270-2997

Toni Castoro Secretary tcastoro@hampstead-furniture.com (910) 270-3393