

Pender County Planning and Community Development

Planning Division

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MINUTES

**Pender County Planning Board Meeting
October 4, 2011 7:00 p.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina**

Call to Order: Chairman Boney called meeting to order at 7:00 pm.

Roll Call: Chairman Boney

Pender County Planning Board Members:

Boney: Edens: Garrett: Marshburn: Millette: Smith: Williams:

- 1. Adoption of the Agenda:** Board member Millette made the motion to approve the agenda; seconded by Board member Marshburn. The vote was unanimous.
- 2. Approval of Minutes:** Board member Marshburn made the motion to approve the minutes from the September 13, 2011 meeting; seconded by Board member Millette. The vote was unanimous.
- 3. Public Comment:** Chairman Boney opened the floor to public comment; floor was closed due to no public comment.
- 4. Zoning Map Amendment:** Mark Walton of Walton Engineering, applicant, on behalf of Buyers Brokers and Consultants Inc, owner, is requesting approval of a Zoning Map Amendment for a general use rezoning of two tracts totaling 721.76 acres from PD, Planned Development District, to RA, Rural Agricultural District. The property is located south of Island Creek Road along the Pender County and New Hanover County Line in Scotts Hill and may be identified as Pender County PINs 3262-25-8994-0000 and 3262-69-4150-0000. A Public Hearing was held for Agenda Item 4 on September 13, 2011, due to a tied vote Planning Board members requested to table the agenda item until Board members could have a discussion with the County Attorney. Planner Frank reviewed Agenda Item 4 with the Board. Board member Garrett asked Attorney Thurman to clarify if the Board's decision could place Pender County in potential lawsuit territory by other property owners of the approved Master Plan; Attorney Thurman stated that in his opinion and he believed it was also the opinion of Kyle Breuer, Planning Director and the School of Government, that if the Board approves the rezoning request then the Master Development Plan would be nullified; yes, there could be litigation, however it was of no concern for him because Mr. Teachey had the right to request a rezoning for his land, and that the Board should treat the Zoning Map Amendment as just that. Board member Garrett thanked Attorney Thurman for the clarification.

Board member Garrett made the motion to approve the Zoning Map Amendment as presented; seconded by Board member Edens. The vote was 5-1 in favor of the motion.

(Public Hearing Opened)

5. Master Plan Review

Bailey and Fuller Properties LLC, applicant, on behalf of JEC Investments, LLC, owner, is requesting the approval of a 2,400 square foot commercial building on approximately .24 acres. The proposed project is located within Hampstead Village, located at 15444 US Highway 17, Hampstead, NC. The property is zoned PD, Planned Development and may be identified as PINs 3293-10-6053-0000, 3293-10-6001-0000, and 3293-19-5976-0000. Ken Vafier, Senior Planner, presented and gave background information for Agenda Item 5. Chairman Boney requested to hear from the owner; Charles Cazier, Intracoastal Engineering, represented the owners and stated that Mr. Vafier had covered everything in his presentation. After a brief discussion regarding zero lot lines, Chairman Boney asked if anyone would like to make a motion.

Board member Garrett made the motion to approve the Zoning Map Amendment as presented; seconded by Board member Marshburn. The vote was unanimous.

6. Zoning Text Amendment

Seashore Builders Inc., applicant, is requesting the approval of a text amendment to the Pender County Unified Development Ordinance (UDO), Section 5.2.3, Table of Permitted Uses. Specifically, the request is to allow five classifications of wood and metal product manufacturing (NAICS codes 321214, 321992, 321999, 332311, and 332999) to be permitted via Special Use Permit in the GB, General Business District. Ken Vafier, Senior Planner, presented and gave background information for Agenda Item 6. Board member Garrett asked Mr. Vafier how did the applicant's request come about, Mr. Vafier answered through a Code Enforcement site visit which staff discovered the use was not in compliance with the Pender County Unified Development Ordinance and notified the property owner. Board member Garrett asked if there were any other options for the applicant; Mr. Vafier answered that the applicant could request a rezoning, but after discussions with the applicant and other staff members it was believed that a rezoning would not be supported by the Pender County Unified Development Ordinance. Chairman Boney requested to hear from those that had signed up to speak. Stephen Raynor, applicant, presented some background on his business, stating that Seashore Builders Inc, had been in business since 2001; relocated to their current location in May of 2011 and had been successfully operating. Mr. Raynor said he felt his business was welcomed into the community and that the majority of his workforce was Pender County residents. Board members had some discussion with the applicant regarding if NAICS codes 321999 and 332999 pertained to his business operations, Board members felt that approving all uses would create future problems for other parts of the county; Board members asked the applicant would he be able to continue conducting business without the approval of those said codes; Applicant responded yes. Chairman Boney requested to continue hearing from those that had signed up to speak; Nick Lanier, employee of Seashore Builders, Inc, stated he was speaking to the Board on behalf of himself and his coworkers, they asked the Board to please consider allowing Seashore Builders to continue to do business at their current location. Kenneth Lanier, Pender County resident, stated that first of all he was not related to Nick Lanier and that he was a lifelong resident of Pender County. Mr. Lanier stated that he knew there were technical issues the Board would have to consider, but from a personal perspective he would like to say that the Maple Hill community is excited to have Seashore Builders as neighbors and that he hopes the Board can do what is in their capacity to see that Seashore Builders is allowed to continue doing business at their current location. Jason Lanier, Pender County resident, stated that he was not related to Nick or Kenneth Lanier and would also like to speak in favor of approving Seashore Builders' request. Mr. Lanier praised Seashore Builders on their commitment to the community. Steve Holland, Pender County resident and business owner, stated that having a business in the area that can offer jobs is a great thing considering the fact that recently he had to lay twelve employees off and that he also hoped the Board could find some way to

help Seashore Builders stay at their current location. Chairman Boney closed the floor to public comment so that the Board could have their discussion. Board member Millette stated that he was very impressed with the community showing support for the applicant however, the Board should not revise the Pender County ordinance based on the needs of one business, that it is not good planning. Board member Millette said he would like to suggest a rezoning. Director Breuer responded that staff had discussed all options and their interpretation was that a rezoning for this case would not be supported by the Pender County Unified Development Ordinance or the Comprehensive Land Use Plan. Board members had a brief discussion regarding the NAICS codes that could be removed. Chairman Boney stated that he had family members employed by Seashore Builders and for that reason he would exclude himself from voting on the matter and with that said would anyone like to make a motion.

Board member Garrett made the motion to approve the Zoning Text Amendment as presented excluding NAICS codes 321999 and 33299; seconded by Board member Williams. The vote was unanimous.

7. Master Plan Revision

Stroud Engineering, P.A. applicant, on behalf of Hampstead Commons, LLC, owner, is requesting the approval of a Master Plan and Phase I Preliminary Plan revision to Hampstead Commons. The revision will include modifications to the previously approved Phase I Preliminary Plan, which consists of changes to the road alignment, building layout, and adjustment to the phase boundaries. The project is located along the western side of U.S. Highway 17, Hampstead, just north of Caison Drive, and is zoned PD, Planned Development District. The property may be identified as Pender County PINs 421-01-9183-000L, 4204-21-0164-0000, 4204-20-6843-0000, and 4204-10-9252-0000. Planner Frank presented and gave background information on Agenda Item 7. Board member Garrett stated the maps presented appeared to show a right of way easement between Phase III Commercial, and asked if that was correct; Planner Frank responded no, she believed it was a Flag lot, owned by the applicant. Board member Williams asked if the density would remain the same; Planner Frank answered yes. Board member Millette stated that the Department of Transportation TRC comments prefer that the access be shifted to the Northern property line due to the proposed Hwy 17 Bypass; Planner Frank responded that the comment was from the previous proposed Master Plan, that there has been conversation with DOT and at this point the applicants are only proposing access from Caison Drive for Phase I. Jimmy Fentress, Stroud Engineering, stated that access from Hwy 17 would be developed in Phase II or III and would be reviewed with the preliminary plan, at that time the issue with DOT wanting the access relocated would have to be resolved. Director Breuer asked to clarify if Phase II Preliminary up for approval or just Phase I; Planner Frank answered only Phase I at this time. Board member Millette stated that he would like to see the access issues resolved as soon as possible. Brian Kaiser, applicant, stated that he has had numerous conversations with DOT but they cannot give him an answer on what it is they want him to do regarding access from Hwy 17, their TRC comments are over a year old. In recent conversations DOT is proposing two plans, one would include a frontage road and the other proposes a connector road. Board members continued with some brief discussion, Chairman Boney asked if anyone had any questions, comments or motions.

Board member Edens made the motion to approve the Master Plan and Phase I Revision as presented; seconded by Board member Garrett. The vote was unanimous.

8. Zoning Text Amendment

Pender County, applicant, is requesting the approval of a text amendment to the Pender County Unified Development Ordinance (UDO), Section 4.14, Zoning District Dimensional Requirements, Section 7.10, Off-Street Parking and Loading/Parking Requirements, and the creation of Section 7.14, Low Impact Development. Planner Andrea presented and gave background information for Agenda Item 8. Planner Andrea gave thanks to the Board for their input over the past few months and hoped that the proposed language would be approved. Board members discussed the proposed language regarding Open Space requirements. Board member Williams stated that he felt section 7.14 E was more restrictive than the UDO and felt that section could be removed or reference the UDO; Planner Andrea responded that he could revise the language and bring the item back to the Board. Board members continued with discussion. Cameron Moore, BASE, stated that he hoped the Board would vote in favor of the Zoning Text Amendment. Chairman Boney asked if there were any motions.

Board member Millette made the motion to approve the Zoning Text Amendment as presented with the Board recommended amendments to Section 2 and 3 and to include the date of reference material used in Section 7.14 A-2; seconded by Board member Garrett. The vote was 4 – 2 in favor of the motion.

(Public Hearing Closed)

9. Discussion Items:

a. Planning Staff:

- i. **Updates:** Director Breuer gave several updates to Board members which included the following:
 - Director Breuer presented a project update on Project Hwy 17/210 Corridor Study to the Board of County Commissioners on October 3, 2011 and will forward that information to the Planning Board; the study and recommendations will be presented for approval at the November Planning Board meeting; Staff has opened a thirty day period for public comments.
 - Director Breuer stated that Ralph Kays, Pender County Code Enforcement Officer and himself, have been working with the Pender County IT Department to create a Sign Enforcement computer based program for temporary signs. Staff plans to present a text amendment to the Board in November. Staff is also working on text amendments regarding shipping containers, water/sewer definitions, and the number of terms the Zoning Board of Adjustment members can serve.
- ii. **November Meeting:** Due to Municipal Elections it was decided that staff would find a location in Hampstead for the November Planning Board meeting.
- iii. **Integra** – Attorney Thurman stated that there was an approved deal with Integra, but at this time they were 3.5 million dollars short on starting the project, Biltmark Homes would be writing a check for 1 million which would leave more than half to raise in order to start the project.

b. Planning Board Members: NONE

10. Adjournment: Meeting adjourned at 9:45 pm.