Pender County
Planning and Community Development

Planning Division
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Burgaw, NC 28425

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AGENDA

Pender County Planning Board Meeting
September 7, 2010 7:00 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: ____ Boney: ____ Marshburn: ____ Millette: ____ Smith: ____ Williams: _____

Adoption of the Agenda

1. **Approval of Minutes: August 3, 2010**

2. **Public Comment**

3. **Public Hearing-Zoning Map Amendment:** Pender County, applicant, is requesting approval of a zoning map amendment (rezoning) affecting 19 parcels at approximately 540 acres. The properties currently do not have zoning classifications and are proposed to be RA, Rural Agricultural, and RP, Residential Performance zoning classifications. The properties are located between US Hwy 117 North of Burgaw and the intersections of New Savannah Rd. and Old Savannah Rd., Burgaw, NC and can be identified by the following PIN(s): 3219-48-8829-0000, 3310-70-5592-0000, 3310-70-7883-0000, 3310-70-9724-0000, 3310-80-0589-0000,3310-70-8429-0000, 3310-80-4961-0000, 3310-81-9039-0000, 3310-81-1715-0000, 3310-90-7689-0000, 3310-91-5925-0000, 3320-01-1499-0000, 3320-13-4815-000I, 3320-13-4815-000L, 3320-33-1849-0000, 3320-33-6407-0000, 3320-33-9574-0000, 3320-43-6751-0000, 3320-43-7449-0000.

4. **Public Hearing-Zoning Text Amendment:** Pender County, applicant, is requesting approval of an amendment to the Pender County Unified Development Ordinance, Articles 3.8.4.D.19, 4.14.1, 5.2, 6, and Appendix A-Definitions.

5. **Discussion Items**
   a. Planning Staff
      i. UDO Updates
      ii. Ratified HB 683 An Act to Extend the Permit Extension Act of 2009
      iii. Next Meeting: October 5, 2010
   b. Planning Board Members

6. **Adjournment**

ITEM NO: 3

PLANNING STAFF REPORT
Zoning Map Amendment 10-10-18-02

SUMMARY:

Hearing Date: September 7, 2010 – Planning Board
October 18, 2010 – Board of County Commissioners
Application Number: ZMA 10-10-18-02 Pender County
Applicant: Administrator, Division of Planning
Property Owners: Multiple

Zoning Proposal: Request to zone properties affected by the Town of Burgaw's ETJ reduction to RA, Rural Agricultural District and RP, Residential Performance District.

Property Record Numbers, Acreage, and Location: The area in consideration for zoning contains 19 parcels and is approximately 540 acres located north of the Town of Burgaw. Property identification numbers and exact locations can be found on the accompanying map.

Administrator Recommendation: Administrator respectfully recommends approval of the request.

DESCRIPTION:

On May 11, 2010, the Town of Burgaw Board of Commissioners voted to adopt a new Extraterritorial Planning Jurisdiction (ETJ) which became effective July 13, 2010. As a result of this change, properties that had previously fallen under the Town of Burgaw's planning and zoning jurisdiction have been relinquished and will be entirely zoned under the planning and zoning jurisdiction of Pender County. Due to this change, the affected 19 parcels will require Pender County zoning district classifications.

Staff is proposing to zone these properties based off of current land use and adjacent zoning classifications (please refer to attached map) to efficiently transition to Pender County zoning districts.

EVALUATION:

A. ***Public Notifications:*** Public Notice of the proposal for map change has been advertised in the Pender Post and Topsail Voice and adjacent property owners have been given written notice of the request.
B. ***Existing Zoning in Area:*** The subject properties, as well as all adjoining tracts, are zoned either RA, Rural Agricultural District or RP, Residential Performance District.
C. ***Existing Land Use in Area:*** The area in consideration is contains very low net density residential uses.
D. ***2005 Land Use Plan Compliance:***
Transition Area: Properties located east of US Hwy 117 contain Transition Area classification with a Conservation Area II overlay. The plan indicates that this classification provides for areas of more intensive community development where the county is making plans to develop public services, particularly water and sewer services, and where access to transportation is excellent. There is an existing water line running parallel to US Hwy 117.
Rural Area: The properties located west of US Hwy 117 are all classified as Rural Area. This land classification provides for agricultural and forestry operations that are key to the preservation of the county's rural landscape and that remain a major part of the county's economic base. This rezoning request is consistent with the 2005 Land Use Plan (See attached CAMA Land Use map).

E. Comprehensive Land Use Plan Compliance:

Rural Growth: The Rural Growth land use classification defines those areas of Pender County where urban services, i.e., public water and sewer services, are not expected to be extended within the planning horizon. Rural Growth areas are where preservation of agricultural operations is a primary concern and where conflicts between agricultural and non-agricultural uses are to be discouraged. This request is consistent with this land use classification.

Suburban Growth: The Suburban Growth land use classification identifies those areas of Pender County where significant residential growth is expected to occur. This request is consistent with this land use classification.

*F. **Unified Development Ordinance Compliance**:* Article 3.3.8 of the Unified Development Ordinance provides for standards that shall be followed by the Planning Board before a favorable recommendation of approval for rezoning can be made. The proposed rezoning meets the standards of Article 3.3.8 of the Unified Development Ordinance.

3.3.8 Review Criteria for Rezoning
The Planning Board and Board of Commissioners shall consider the following matters in considering a rezoning request:
A. *Whether the range of uses permitted by the proposed change would be appropriate to the area concerned (including not being detrimental to the natural environment, not adversely affecting the health or safety of residents or workers in the area, not being detrimental to the use or development of adjacent property, and not materially or adversely affecting the character of the general neighborhood);*
B. *Whether adequate public facilities/services (i.e., water, wastewater, roads) exist, are planned, or can be reasonably provided to serve the needs of any permitted uses likely to be constructed as a result of such change;*
C. *Whether the proposed change is consistent with the County's Comprehensive Land Use Plan and CAMA Land Use Plan or any other adopted land use document.*
D. *Whether the proposed amendment is reasonable as it relates to the public interest.*

*F) **Summary & Staff Recommendation:*** The proposal consists of zoning 19 tracts totaling ±554 acres. The request complies with the criteria set forth in Article 3.3.8 of the Unified Development Ordinance. The request is also consistent with the 2005 CAMA Land Use Plan and Comprehensive Land Use Plan. Therefore, staff respectfully recommends that the request be approved.

VOTING AND RESOLUTION:

Planning Board

Motion:_____Seconded_____

Approved:_____Denied:_____Unanimous_____

Reynolds ____Boney ____Garrett ____ Marshburn ____ Millette ____ Smith ____ Williams ____

ITEM NO: _____

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on October 18, 2010, the Pender County Board of Commissioners (approved, modified, denied) a rezoning request for property as described herein and Jimmy T. Tate, 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_____

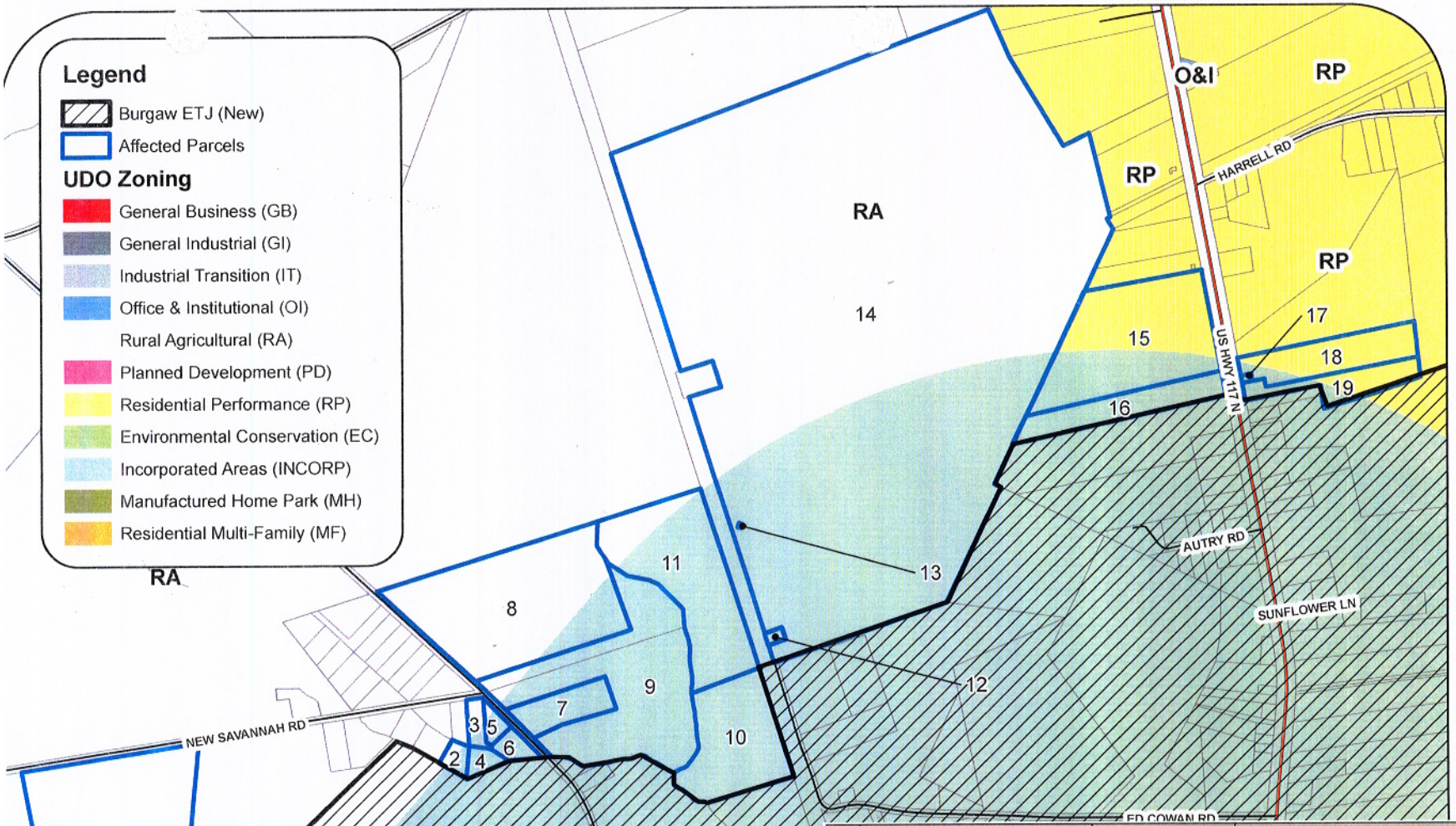
YEA VOTES: Tate_____ Blanchard_____ Brown_____ Rivenbark _____ Williams_____

_____
Jimmy T. Tate
Chairman

October 18, 2010
Date

_____
ATTEST

_____
DATE



MAP 1

Applicant:
Pender County

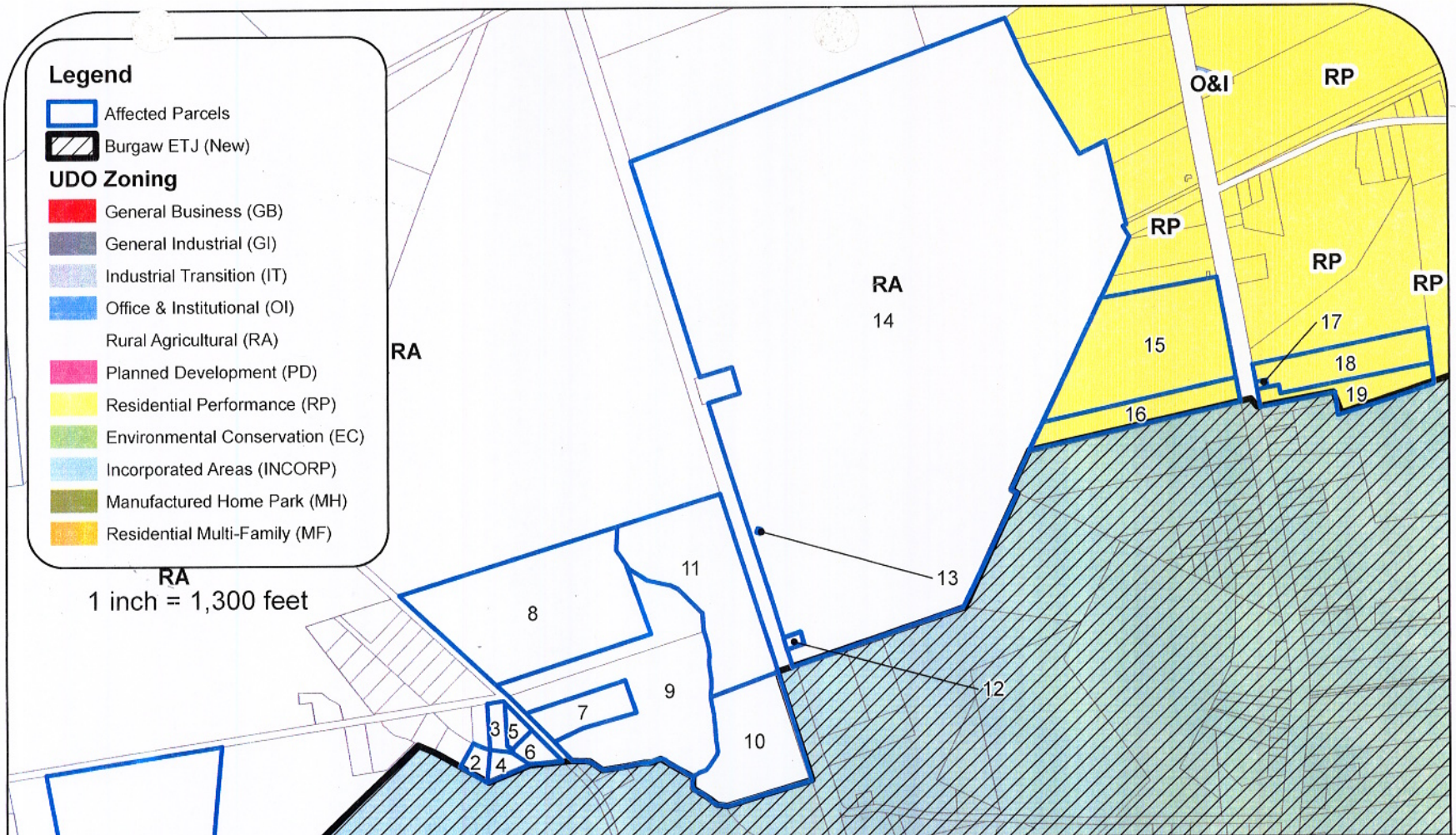
Owners:
See Below

Zoning Map Amendment (Rezoning) 10-10-18-02

Burgaw ETJ Reduction

No.	NAME	PIN	ADDRESS	Zoning
1	RIVENBARK NATHAN C SR et al	3219-48-8829-0000	1430 NEW SAVANNAH RD	Split
2	RIVENBARK FRANKLIN D et al	3310-70-5592-0000	P O BOX 151	Split
3	RIVENBARK FRANKLIN D et al	3310-70-7883-0000	P O BOX 152	Split
4	RIVENBARK FRANKLIN D et al	3310-70-8429-0000	P O BOX 153	All-town
5	RIVENBARK FRANKLIN D et al	3310-70-9724-0000	P O BOX 154	Split
6	RIVENBARK FRANKLIN D et al	3310-80-0589-0000	P O BOX 155	All-town
7	BOST RAYMOND R JR et al	3310-80-4961-0000	1956 OLD SAVANNAH R SOUTH	All-town
8	DILLON NICHOLAS R	3310-81-1715-0000	2118 OLD SAVANNAH ROAD	Split
9	BOST RAYMOND ROBB JR et al	3310-81-9039-0000	1956 OLD SAVANNAH RD	Split
10	HAYES DORA HEIRS	3310-90-7689-0000	C/O ALEXANDER HAYES.1025 BALTMORE ST	All-town
11	WILLIAMS JOHN H HEIRS	3310-91-5925-0000	C/O THOMAS WILLIAMS.1607 SHOOTING STAR DRIVE	Split
12	ROBINSON JESSIE P HEIRS	3320-01-1499-0000	C/O DENISE PAIGE.1542 NEW YORK AVE	All-town
13	ENGLISH W C JR	3320-13-4815-000I	1079 OLD SAVANNAH ROAD	All-town
14	ENGLISH FARMS et al	3320-13-4815-000L	1071 OLD SAVANNAH RD	Split
15	WELLS ROBERT E et al	3320-33-1849-0000	1927 US HWY 117 N	Split
16	RIVENBARK JERRY W SR et al	3320-33-6407-0000	1891 US HWY 117N	All-town
17	SEAMSTER FRANKIE	3320-33-9574-0000	3355 JONESBORO RD	All-town
18	CREWS ESTELLE	3320-43-6751-0000	C/O CURTIS W. POOLE JR.1878 US HWY 117 N	Split
19	LANIER HARRY LISTON et al	3320-43-7449-0000	1490 WILEYS LN SE	Split

3.4



No.	NAME	PIN	ADDRESS	ACRES	Zoning
1	RIVENBARK NATHAN C SR et al	3219-48-8829-0000	1430 NEW SAVANNAH RD	89.76	RA
2	RIVENBARK FRANKLIN D et al	3310-70-5592-0000	P O BOX 151	1.04	RA
3	RIVENBARK FRANKLIN D et al	3310-70-7883-0000	P O BOX 152	1.28	RA
4	RIVENBARK FRANKLIN D et al	3310-70-8429-0000	P O BOX 153	1.18	RA
5	RIVENBARK FRANKLIN D et al	3310-70-9724-0000	P O BOX 154	0.97	RA
6	RIVENBARK FRANKLIN D et al	3310-80-0589-0000	P O BOX 155	1.34	RA
7	BOST RAYMOND R JR et al	3310-80-4961-0000	1956 OLD SAVANNAH R SOUTH	4.82	RA
8	DILLON NICHOLAS R	3310-81-1715-0000	2118 OLD SAVANNAH ROAD	32.88	RA
9	BOST RAYMOND ROBB JR et al	3310-81-9039-0000	1956 OLD SAVANNAH RD	31.01	RA
10	HAYES DORA HEIRS	3310-90-7689-0000	C/O ALEXANDER HAYES.1025 BALTMORE ST	14.83	RA
11	WILLIAMS JOHN H HEIRS	3310-91-5925-0000	C/O THOMAS WILLIAMS.1607 SHOOTING STAR DRIVE	21.96	RA
12	ROBINSON JESSIE P HEIRS	3320-01-1499-0000	C/O DENISE PAIGE.1542 NEW YORK AVE	0.34	RA
13	ENGLISH W C JR	3320-13-4815-000I	1079 OLD SAVANNAH ROAD	0.02	RA
14	ENGLISH FARMS et al	3320-13-4815-000L	1071 OLD SAVANNAH RD	292.46	RA
15	WELLS ROBERT E et al	3320-33-1849-0000	1927 US HWY 117 N	24.99	RP
16	RIVENBARK JERRY W SR et al	3320-33-6407-0000	1891 US HWY 117N	7.65	RP
17	SEAMSTER FRANKIE	3320-33-9574-0000	3355 JONESBORO RD	0.13	RP
18	CREWS ESTELLE	3320-43-6751-0000	C/O CURTIS W. POOLE JR.1878 US HWY 117 N	8.80	RP
19	LANIER HARRY LISTON et al	3320-43-7449-0000	1490 WILEYS LN SE	5.33	RP

MAP 2

Applicant:
Pender County

Owners:
See Below

Zoning Map Amendment (Rezoning) 10-10-18-02

Burgaw ETJ Reduction

ZONING MAP

ITEM NO: 4

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – September 7, 2010
Board of Commissioners – October 18, 2010
Applicant: Administrator, Division of Planning
Application Number: 10-10-18-01 Pender County

Text Amendment Proposal: The request consists of amending the Pender County Unified Development Ordinance (UDO), Articles 3,4,5,6, and Appendix A-Definitions

Background: The Text Amendments were first introduced to the Pender County Planning Board at the August 3, 2010 meeting as discussion items. The Pender County Planning Board directed staff to submitted Text Amendments at the September 7, 2010 Meeting.

Administrator Recommendation: Administrator respectfully recommends **amending** the requested Articles as follows:

Article 3 Review Procedures

3.8.4. D.19 Contents of a Minor Site Plan

A. Site plan and details section

1) The location of all adjoining lots with the owner's name, specific use, zoning, and zoning boundaries shown.
2) The location of all existing or planned rights-of-way and easements that adjoin the property, with street names, widths, and speed limits shown.
3) All nearby entrances that are within 200 feet of any existing or proposed entrances to the site. Existing or proposed interconnections to adjoining sites as applicable.
4) All existing and proposed driveways, parking and loading spaces, parking lots and a description of surfacing material and construction details to be used. The size and angle of parking spaces, aisles, maneuvering areas, and loading spaces shall be shown.
5) A North arrow.
6) A graphic scale and statement of scale.
7) A legend describing all symbols and other features that need description.
8) The present zoning of all portions of the site, with the location of zoning boundaries.
9) The location of all existing and proposed structures, with the height, specific use, ground floor area, and total floor area labeled.
10) The location of all existing and proposed outdoor uses, with the height, specific use, and land area labeled.
11) The location of the front, side, and rear yard setback lines required by the applicable zoning district.
12) The location of outdoor trash receptacles.
13) Signage requirements per Article 9.
14) Landscaping requirements per Article 7.
15) The location of sidewalks and walkways.
16) The location and width of proposed easements and dedications.
17) The location and size of sewage disposal and water supply systems.
18) Facilities necessary to meet the requirements of the Fire Code.
19) ~~**A signed seal of the certified design professional who prepared the plan.**~~
20) A space labeled "Approved by the Pender County Unified Development Administrator" for the signature of the Administrator, approval date, and a statement that reads "site plan valid for five years from approval date."
21) Other information or statements may be required on the site plan by the Administrator to ensure that all requirements of the Pender County Code and Land Use Plans are met.

ITEM NO: _____

Article 4 **Zoning Districts**

4.14.1 Dimensional Requirements Table

Dimensional Standards	RA	RP	RM	MH	GB	OI	IT	GI	PD	EC
Lot Size	1 Acre	15,000[5] Sq. Ft.	(1)	4,000 Sq. Ft.	15,000 Sq. Ft.	15,000 Sq. Ft.	1 Acres	1 Acres	(1)	1 Acre
Lot Size Duplex	60,000 Sq. Ft.	22,000 Sq. Ft.	(1)						(1)	
Min. Area Rezoning[3]	NA	5 Acres	10 Acres	5 Acres	1 Acre	1 Acre	5 Acres	5 Acres	100 acres	NA
Min. Lot Width-Ft	100	80[6]	(1)	80	80	80	100	100	(1)	100
Min. Chord Length at ROW line for "cul de sac's"	45	30	(1)	20	30	30	45	45	(1)	45
Min. Front Yd.-Ft.	30	~~35~~ 30	(1)	5	25	25	40	50	(1)	50
Min. Side Yard-Ft	15	10	(1)	5	10	10	25	25	(1)	25
Min. Rear Yard-Ft	30	25	(1)	5	10	10	25	25	(1)	25
Max. Height-Ft	35[2]	35[2]	45	35	40	40	50	50	(1)	40
Min. Req. Structure Separation	40	30	(1)		50	50	50	100	(1)	30

ITEM NO: _____

Article 5 **Permitted Uses**

5.2.3 Table of Permitted Uses

		Zoning Districts									
Use Type	**Ref NAICS**	**RA**	**RP**	**RM**	**MH**	**PD**	**GB**	**OI**	**IT**		**EC**
Sector 62: HEALTH CARE AND SOCIAL ASSISTANCE											
Nursing and Residential Care Facilities	623	S	S			P	P	P			
Except: Residential Mental Retardation, Mental Health & Substance Abuse Facilities	6232	S						S			
Social Assistance **Except:** 6244 - Child Day Care Services	624	S				P	P	P			
Vocational Rehabilitation Services	6243						P	P	P	P	
~~Child Day Care Services~~	~~6244~~	~~P~~	~~S~~	-	-	~~P~~	~~P~~	~~P~~	-	-	-
Sector 71: ARTS, ENTERTAINMENT, AND RECREATION											
Performing Arts Companies	7111	S				P	P				
Spectator Sports	7112	S					P		P		
Promoters of Performing Arts, Sports and Similar Events	7113	S				S	S				
Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	7114					P	P	P			
Museums, Historical Sites and Similar Institutions	712	S				P	P	P			
Amusement and Theme Parks	713110	S				S	S				
Amusement Arcades	713120						P				
Golf Courses and Country Clubs	713910	S	PM			P					
~~Marinas~~	~~713930~~	~~S~~	~~PM~~	-	-	~~PM~~	-	-	-	-	-
Fitness & Recreational Sports Centers	713940					P	P	P	P		
Bowling Centers	71395					P	P	P	P		
All Other Amusement & Recreation Industries	71399	S				P	P		P		
Horse Riding, Recreational	713990	P	S								

ITEM NO: _____

Article 5 **Permitted Uses (Cont.)**

5.2.3 Table of Permitted Uses

		Zoning Districts									
Use Type	**Ref NAICS**	**RA**	**RP**	**RM**	**MH**	**PD**	**GB**	**OI**	**IT**	**GI**	**EC**
MISCELLANEOUS USES											
Adult and Sexually Oriented Businesses									S	S	
Adult Retail									S	S	
Child Care Center		**P**	**S**			**S**	**P**	**P**			
Family Child Care Home		**P**	**P**			**P**	**P**	**P**			
Marina		**S**	**PM**			**PM**					
Storage of Merchandise, Materials or Equipment On Site Inside or Outside An Enclosed Building, Excluding Salvage		S							P	P	
Public Parks		P	P	P	P	P	P	P	P	P	
Salvage Operations		S								D	
Sweepstakes Center							S		S	S	
Telecommunication Facilities		S D	SD			SD	S D	S D	S D	SD	
Temporary Manufactured Homes		P	P			P					
Temporary Modular/Manufactured Offices						P	P	P	P	P	
Temporary Fruit & Vegetable Stands		P	P								
Temporary Buildings for Construction or Development		D	D	D	D	D	D	D	D	D	
Temporary Events		D					D	D	D	D	

ITEM NO: _____

Article 6 Development Standards and Subdivision Design

6.189.3 Release of Guarantee Requirements

A. The Administrator shall release the Performance Guarantee when all requirements of this ordinance have been met and construction and installation of all required and proposed improvements have been completed and certified and a Defects Guarantee has been submitted and approved. Certification must include the following:

B. Certification from a Professional Land Surveyor that all monuments and markers required by this ordinance and NCGS 39-32.1-4 have been installed and,

C. Certification from the District Engineer that public streets have been constructed to NCDOT Secondary Road Standards or,

D. Certification from a Registered Engineer that construction of private streets and all other required and proposed improvements have been completed specifically in compliance with the provisions of this ordinance

E. Certification of completion and performance of the Drainage System by a Registered Engineer and,

F. Certification by the Administrator or his designee that the improvements required have been installed and such approval is issued to the subdivider in writing and entered into the record file.

G. Performance guarantees shall require construction and installation of improvements within one year after the date of issuance of a permit or approval of construction plans if no permit is required.

H. The applicant may request up to two (2) extensions of up to six months of the time limit for compliance if circumstances beyond the control of the applicant warrant an extension. The request for an extension shall be in writing and accompanied by a schedule for completion of remaining work. Approval of such request shall be at the Administrators or County Engineers sole discretion.

6.2.2.A.9.d.

9) Waste water disposal requirements – One of the following must be met:

a) An Improvement Authorization Permit has been issued for each of the parcels,

b) The soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5000 sq. ft. is not within 10 ft of any lot boundary,

c) Approval has been granted to connect to public sewer or community sewer or

d) Lots not meeting the requirements of a, b, or c are indicated by the following note: "THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, **UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRATE STATE AGENCY** OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE."

e) For alternative, see Design Requirements, Lots Section of this ordinance for "Special Purpose Lots"

6.3.1. B.7.d.

7) Waste water disposal requirements – One of the following must be met:

a) an Improvement Authorization Permit has been issued for each of the parcels,

b) the soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5,000 sq. ft. is not within 10 ft of any lot boundary,

c) approval has been granted to connect to public sewer or community sewer or

d) Lots not meeting the requirements of a., b., or c. are indicated by the following note: "THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, **UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRATE STATE AGENCY** OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE."

e) For alternative, see Design Requirements, Lots Section of this ordinance for "Special Purpose Lots."

6.4.1. B.7.d.

8) Waste water disposal requirements – One of the following must be met:

a) An Improvement Authorization Permit has been issued for each of the parcels,

b) The soil suitability analysis shows that at least 5,000 sq. ft. of each lot is suitable for traditional on site waste disposal and the required 5,000 sq ft. is not within 10 ft of any lot boundary,

c) Approval has been granted to connect to public sewer or community sewer, or

d) Lots not meeting the requirements of a., b., or c. are indicated by the following note: "THIS PARCEL CANNOT BE USED FOR BUILDING DEVELOPMENT, **UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRATE STATE AGENCY** OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE."

e) For alternative, see Design Requirements, Lots Section of this ordinance for "Special Purpose Lots."

6.7.1. E.5.

E. All lots shown on the final plat other than open space or other specially approved lots shall meet any one of the following as follows:

1) Be served by an onsite waste water system, which is located on the site where the unit served is located, and the system has received an "Improvement Authorization Permit" from Environmental Health,

2) Be served by a Community Sewer System as defined in this ordinance and approval for connection to the system is provided,

3) Be served by a waste water system that meets the requirements of the "Water And Sewer System Requirements In Streets, Access Easements Or Other Locations Off The Site Of The Unit Served," of this ordinance,

4) The soil suitability analysis as required by this ordinance and submitted with the preliminary plat shows that each lot contains at least 5,000 sq. ft. of area that is " suitable" for traditional on site waste disposal and the required 5,000 sq. ft. is not within 10 ft of any lot boundary,

f) Lots not meeting 1,2,3, 4, or 6 provisions of this paragraph shall be labeled with a bold note as follows: **"THE PARCELS SO NOTED CANNOT BE USED FOR BUILDING DEVELOPMENT, UNLESS AN APPROVED WASTE WATER DISPOSAL METHOD HAS BEEN APPROVED AND PERMITTED BY THE PENDER COUNTY ENVIRONMENTAL HEALTH DEPARTMENT OR APPROPRATE STATE AGENCY OR UNLESS A NEW PLAT IS APPROVED AND RECORDED AS REQUIRED UNDER THIS ORDINANCE."**

5) For alternative, see Design Requirements, Lots Section of this ordinance for "Special Purpose Lots."

ITEM NO: _____

Appendix A Definitions

Child Care Services:

Definition to be removed:
DAY-CARE FACILITY: A facility in which more than five children, not including children who are related by blood, marriage or adoption to the people who maintain the facility, are received for care, protection and guidance during only part of the twenty-four-hour day.

Definitions to be added:
CHILD CARE CENTER - An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care, regardless of the time of day, wherever operated, and whether or not operated for profit, unless excluded by NC G.S. 110-82(2)

Family Child Care Home - A child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care, regardless of the time of day, wherever operated, and whether or not operated for profit, unless excluded by NC G.S. 110-82(2)

Definition to be added:
MARINA: Any publicly or privately owned dock, basin, or wet storage facility constructed to accommodate five (5) or more boats and providing any of the following commercial/retail services: permanent or transient docking spaces, dry storage, fueling facilities, haul out facilities, or repair services. Excluded from this definition are boat ramp facilities allowing access only, temporary docking that includes none of the previous listed services, and community boating facilities with five (5) or fewer slips (No commercial activities of any kind shall be allowed within the confines of the facility).

ITEM NO: _____

Advertisement of Public Hearing: A Public Notice of the request for text change has been advertised in the Pender Post and Topsail Voice on Wednesday, August 25, 2010 and Wednesday, September 1, 2010.

Evaluation:

As prescribed in the Pender County Unified Development Ordinance (UDO) Article 3.16.5 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 County Commissioners is whether the proposed amendment advances the public health, safety or welfare and is consistent with any adopted County Land Use Plan documents, the CAMA Land Use Plan, and the specific intent of this Ordinance.

Staff Recommendation:

The proposed text amendments correct errors and revise the Unified Development Ordinance to comply with state or federal statutes or case law. Therefore, Staff is recommending approval of the amendments as presented.

VOTING AND RESOLUTION:

Planning Board

Motion:_____Seconded_____

Approved:_____Denied:_____Unanimous_____

Reynolds ____ Garrett ____ Boney _____Marshburn ____ Millette ____ Smith ____ Williams ____

ITEM NO: _____

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED, that on October 18, 2010 the Pender County Board of Commissioners (approved, modified, denied) a zoning text amendment request as described herein and Jimmy T. Tate., 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: Tate: _____ **Blanchard:** _____ **Brown:** _____ **Rivenbark:** _____ **Williams:** _____

_____ 10-18-2010

Jimmy T. Tate, Chairman **Date**

_____ 10-18-2010

ATTEST DATE

Delivered

#5

Pender County
Planning and Community Development

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

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

MEMORANDUM

To: Pender County Planning Board

From: Kyle Breuer, Director

Date: September 7, 2010

RE: Topics of Discussion for Unified Development Ordinance

Planning Board Members,

Staff is presenting the following topics of discussion for Planning Board review and comment. It is intended to address each of these topics within the next round of UDO text amendments. If you have any questions/comments prior to the meeting, feel free to contact our office for further clarification.

Unified Development Ordinance Updates

Access Requirements for 3-Lot and Family Subdivisions

Currently, the UDO requires a forty five (45') foot access easement/right-of-way for newly created 3-lot subdivisions and family subdivisions. This requirement is an important process due to the legal access requirements it gives a future property owner, etc. Problems have arisen from this requirement not in the legality of the requirement, but in the physical requirements of this regulation. The way that this regulation is enforced is by only recording the easement on a map and not physically constructing any sort of "passable" surface for access.

Jan Dawson, Addressing Coordinator, has recently raised concerns about this process. There have been instances where someone's "legal" access is not where the homeowner is accessing their property and an address has to be issued from a passable driveway/access due to emergency response services. This has been illustrated in the two (2) separate maps included in your packet. This scenario gives a false sense of ownership and creates an emergency management conflict. Ms. Dawson will be available to review the two scenarios submitted and answer any questions the Board may have.

Staff is requesting that the Planning Board review and recommend staff to look in to regulations that would require a subdivider to improve an access easement (new) to the standards that emergency response vehicles may respond and an address be given.

EXAMPLE TEXT (FOR DISCUSSION PURPOSES ONLY):

A. A minimum passable travel way 20 feet wide shall be provided within a forty five (45') foot easement;
B. An adequate drainage system shall be constructed in accordance with the storm drainage plan submitted to and approved by the County Engineer;
C. All such private streets must directly connect to a state maintained road, private road built to NCDOT standards or serve a maximum of four lots;
D. Property lines shall be included in the street easement;
E. Clearing and grubbing will be completed five feet of each edge of the travel way;

1. County Engineer shall approve the storm drainage plans only to the extent that the plans are deemed adequate to maintain the private street as originally constructed. Since there are no maintenance requirements for such private streets for any government agency, there shall be no liability on the County, County Engineer or other County employee after such review and this shall be so stated on the final plat.
2. Maintenance. Upon determination by the Administrator that such private streets as approved are not in a proper state of maintenance, the Director may, in addition to other remedies, prevent re-occupancy of any structure to which such streets provide access until such streets are in a proper state of maintenance as determined by the Administrator.

Travel Trailer storage and living requirements
Staff is requesting to add language to the current regulations (Article 5.3.3.E.) to clarify the inhabitance of recreational vehicles and travel trailers outside an approved travel trailer park.

Family Care Home
Staff recommends further review and possible amendments to consistently classify this use with NC standards and regulations in effect.

Sincerely,

Kyle M. Breuer, Director

Actual Drive Entrance
Legal Access
KEL ASH EXT
KEL ASH RD
COOPER LN
BOYCE RD
ASHTON RD
HOLLY LN
87
116
237
255
269
227
303
912
959
302
201
190
251
125
14560
195
14564
151
14520
14354
12450
111
30
14246
14150
75
14505
14242
14100
14186

Legal Access
Actual Drive Entrance
SHEPARDS RD
PERKINS DR
311
329
306
365
316
336
354
58
96
615
93
525
628

6

Legislative Affairs for Coastal North Carolina Real Estate & Building Industries

Re: H683-An Act to Amend the Permit Extension Act of 2009

House Bill 683 (H683) was hammered out in conference committee and ratified in the early morning hours of Saturday, July 10, 2010. Since then the bill has been signed by the Governor and become law (SL – 2010-177). The bill was intended to extend the "Permit Extension Act" another year, because the "state of economic emergency in the State of North Carolina" which was having drastic effects on the banking, real estate and construction sectors in NC had not subsided. After the General Assembly was through with the bill, it extended the permit extension deadline for another year, to December 31, 2011. However, the further extension was not given without significant conditions being put in place to address certain situations.

In **Section 4.1** the law clarifies that a unit of local government may by resolution provide that [the extension to December 31, 2011, effected by H683] shall not apply to a development approval issued by that unit of local government. In other words, local governments can completely "opt out" of HB 683 and revert back to the original provisions listed in SB 831. In a letter dated July 26th on BASE letterhead, we specifically asked the county not to proceed with the provisions of Section 4.1 in light of the current economic conditions.

To better articulate our position we would provide the following justification:

In **Section 7.1** conditions for qualification; termination; right of appeal, there are three conditions that are listed that highlight what the development permit holder must adhere to. If for some reason the permit holder does not abide by these conditions then the issuing government entity (Pender County) may revoke the permit holders permit extension.

BASE would argue that after reviewing the "Approved Developments List" that was provided to us by the planning staff, there are certainly developments that were approved that only exist on paper, and most likely will never be constructed regardless of any extension. However, it also must be noted that while there are developments in default, there are also developments that are moving forward, perhaps at a slower pace, but none-the-less moving forward. With that said, based upon our interpretation of **Section 7.1** we feel that this particular section highlights enough criteria to effectively manage these types of developments. It lays out three specific areas of requirements that have to be met for any development that falls within the permit extension act. We would also add that the three conditions are very broad in scope covering everything from local laws and ordinances, to maintaining performance guarantees, to completing any necessary infrastructure that is required by the original permit. By utilizing this concept and not utilizing the "opt out" scenario it provides the development community with a protected timeframe to work from. I have included this option below for your review in the hope that the county will consider this as their main option.

SECTION 7.1. Conditions for qualification; termination; right of appeal.

(a) For any development approval extended by S.L. 2009-406, as amended by Section 5.1 of S.L. 2009-484, Section 5.2 of S.L. 2009-550, Sections 2 and 3 of S.L. 2009-572, and by this act, the holder of the development approval shall:

(1) Comply with all applicable laws, regulations, and policies in effect at the time the development approval was originally issued by the governmental entity.

(2) Maintain all performance guarantees that are imposed as a condition of the initial development approval for the duration of the period the development approval is extended or until affirmatively

released from that obligation by the issuing governmental entity.

(3) Complete any infrastructure necessary in order to obtain a certificate of occupancy or other final permit approval from the issuing governmental entity.

(b) Failure to comply with any condition in this section may result in termination of the extension of the development approval by the issuing governmental entity. In the event of a termination of the extension of a development approval, the issuing governmental entity shall provide written notice to the last known address of the original holder of the development approval of the termination of the extension of the development approval, including the reason for the termination.

(c) Termination of an extension of a development approval shall be subject to appeal to the Board of Adjustment under the requirements set forth in law if the development approval was issued by a unit of local government with planning authority under Article 18 of Chapter 153 A or Article 19 of Chapter 160A of the General Statutes.