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

AGENDA
Pender County Planning Board
Tuesday, May 3, 2011 7:00 p.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Boney

Roll Call: Chairman Boney
Pender County Planning Board Members:
Boney: ____ Smith: ____ Edens: ____ Garrett: ____ Marshburn: ____ Millette: _____ Williams: _____

1. **Adoption of the Agenda**

2. **Approval of Minutes: April 5, 2011**

3. **Public Comment**

4. **Presentation**
   Roger Henderson, P.E., AICP, PTOE, Senior Project Manager
   Martin / Alexiou / Bryson PC

   (Public Hearing)
5. **Zoning Map Amendment**
   Logan Properties of Wilmington, LLC, applicant and owner, is proposing a general use rezoning for 0.58 acres from RP, Residential Performance to GB, General Business. The rezoning includes two tracts which are identified as PINs 4215-77-0924-0000 and 4215-67-9855-0000 and are located at 22581 US Highway 17, at the corner of Stag Drive and US Highway 17 in Hampstead.

6. **Zoning Map Amendment**
   Albert and Beatrice Simpson, applicants and owners, are proposing a general use rezoning for 14.49 acres from RP, Residential Performance to GB, General Business. The rezoning includes one tract which is identified as PIN 4215-21-7089-0000 and located on US Highway 17, just south of the intersection of US Highway 17 and Sloop Point Road in Hampstead.

7. **Ordinance Text Amendment**
   Pender County, applicant, is requesting approval of a text amendment to the Pender County Unified Development Ordinance. The request consists of amending: Article 2; Article 3; Article 4.6.5 C & 4.7.2A5; Article 5.2.3, 5.3.2C, 5.3.3.E.3)a)iii)c, & 5.3.10A; Article 6; Article7.1.3A1; Article 9.5.1A1 & 9.10; Article 10.4.3B and Appendix A, Definitions; along with the creation of an additional Article 7, Appendix D and reformatting of Articles 1-12 and Appendices A-D for corrected references.

   Discussion Items
   a. Planning Staff

b. Planning Board Members

8. Adjournment

5A

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: June 20, 2011 - Board of County Commissioners
Application Number: ZMA 11-06-20-02 Logan
Applicant: Logan Properties of Wilmington, LLC
Property Owner: Same

Rezoning Proposal: The request consists of rezoning two tracts from RP ,Residential Performance to GB, General Business District.

Property Record Numbers, Acreage, and Location: The property consists of two separate tracts which are identified as PIN 4215-77-0924-0000 and 4215-67-9855-0000. The total area is 0.58 acres. The property is located at 22581 US Highway 17, at the corner of Stag Drive and US Highway 17 in Hampstead.

Staff Recommendation: Staff respectfully recommends approval of the request.

DESCRIPTION:

The applicant is proposing a general use rezoning for two tracts totaling 0.58 acres from RP, Residential Performance to GB, General Business. The property has direct access to US Highway 17 and currently hosts an occupied single family residence and accessory structure. It should be noted that residential uses are not permitted in the GB zoning district, so the existing residential use will become a nonconforming situation should the rezoning request be granted.

The applicant has stated in their narrative the rezoning request would allow current and future tenants to have the option of operating a business at the subject property while conforming the zoning of the property to the zoning in the surrounding area.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO
No response.

Four County Electric Company
No response.

NC DENR Division of Coastal Management
No response.

NC DENR Division of Forestry
No response.

NC DENR Division of Land Resources
No response.

NC DENR Division of Waste Management
No response.

NC DENR Division of Water Quality
No response.

NC DOT Division of Highways
No comment.

NC DOT Transportation Planning Branch
No response.

NC Office of State Archaeology
No response.

NC Wildlife Resources Commission
No response.

Pender County Building Inspections
No response.

Pender County Emergency Management
No response.

Pender County Environmental Health
No comment.

Pender County Fire Marshal
No comment.

Pender County Parks and Recreation
No comment.

Pender County Public Library
No response.

Pender County Public Utilities
No comment.

Pender County Schools
No comment.

Pender County Sheriff's Department
No comment.

Pender County Soil and Water Conservation District
No comment.

Progress Energy Corporation
No response.

US Army Corps of Engineers
No response.

Wilmington Metropolitan Planning Organization
No comment.

EVALUATION:

A) Public Notifications: Public Notice of the proposal for map change has been advertised in the Pender Post and Topsail Voice. Adjacent property owners have been given written notice of the request.

B) Existing Zoning in Area: The zoning of the adjacent parcels are a mix of commercial and residential zoning districts. The parcels along US Highway 17 adjacent to the southwest of the subject property are zoning GB, General Business. The parcels adjacent to the north of the parcels are zoned GB and RP, Residential Performance. Across US Highway 17 from the subject property, the parcels are zoned RP. Finally, the parcels across Stag Drive from the subject property are within the Town of Surf City's planning and zoning jurisdiction; according to the Planning Director of Surf City, these parcels are zoned C-3, the town's most intensive commercial zoning district.

C) Existing Land Use in Area: The existing land use in the area includes residential and commercial. Directly adjacent to the subject property is East Coast Medical and Art Exposure. Across Stag Drive lies a vacant 2.54 acre tract zoned C3 (intense commercial) under the Town of Surf City planning and zoning jurisdiction. The land use north (behind) the subject property is low-density single family residential on Antler and Stag Drives. Across US Highway 17 lies the residential subdivisions Groves Point and Dogwood Lakes.

D) 2005 CAMA Land Use Plan Compliance: The 2005 CAMA Land Use Plan classifies the subject property as Rural Areas, which recommends very low-density residential uses, home-based businesses, and other businesses traditionally associated with rural farm areas and extraction activities.

E) 2010 Comprehensive Land Use Plan Compliance: The 2010 Comprehensive Land Use Plan classifies the subject property as Mixed Use, which is a land use classification designating locations where a mixture of higher density/intensity uses are to be encouraged.

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.*

G) Summary & Staff Recommendation: The proposal consists of rezoning two tracts totaling 0.58 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 2010 Comprehensive Land Use Plan. Therefore, staff respectfully recommends that the request be approved.

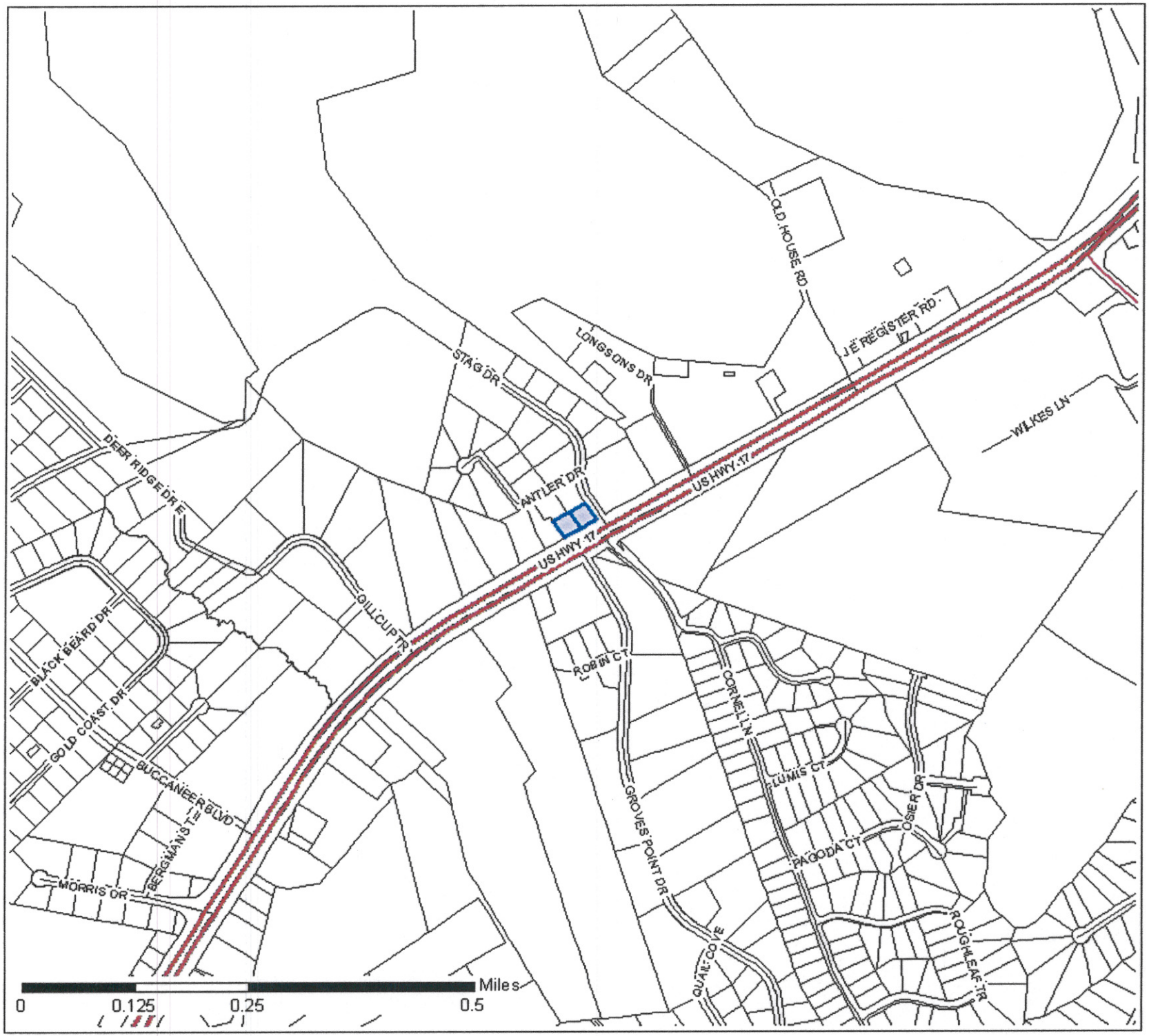
VOTING AND RESOLUTION:

Planning Board

Motion:_____Seconded: _____

Approved: _____Denied:_____Unanimous:_____

Boney ____ Smith_____ Edens_____Garrett _____Marshburn _____ Millette ____Williams ___



Applicant:
Logan Properties
of Wilmington, LLC

Owner:
Logan Properties
of Wilmington, LLC

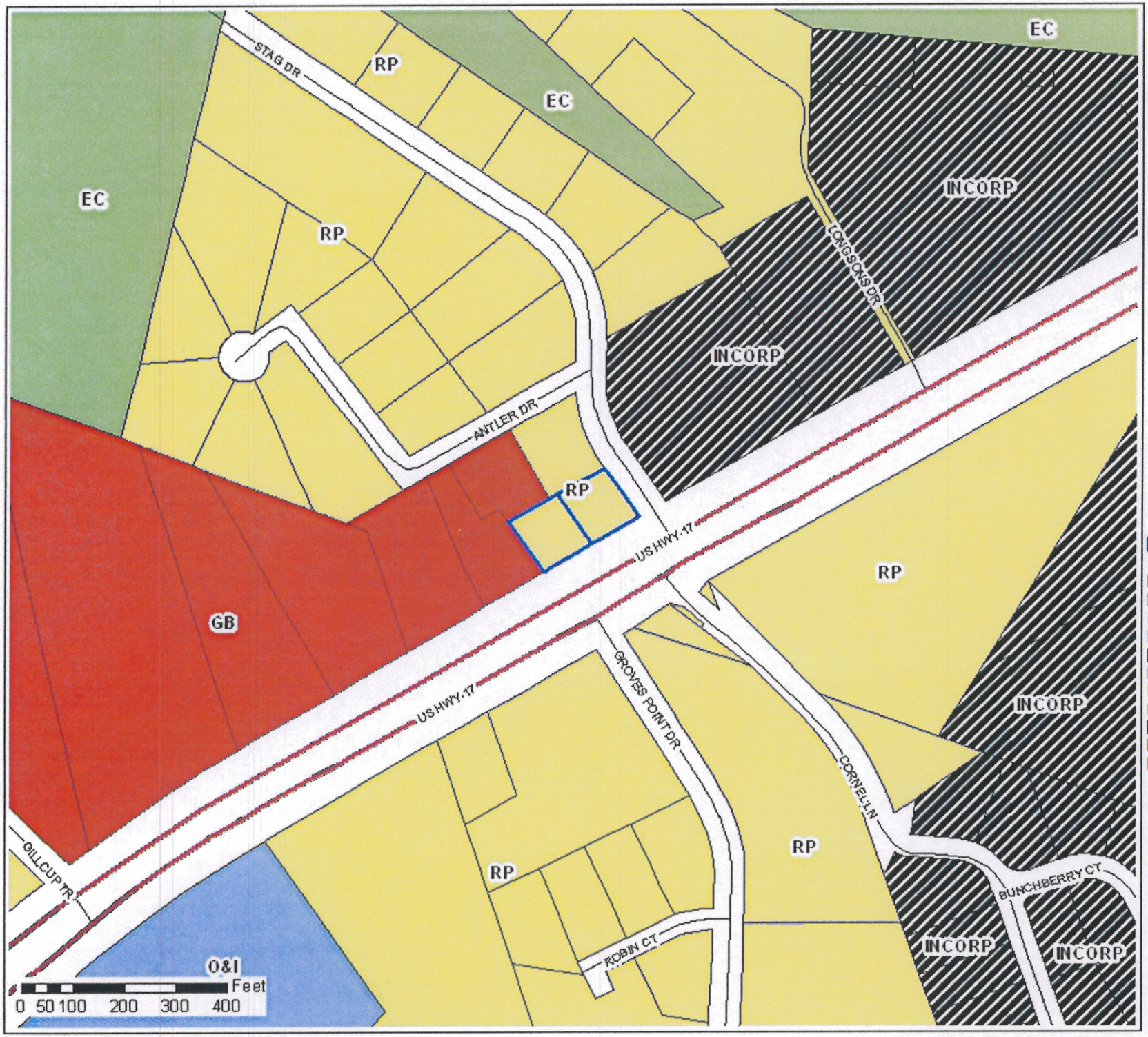
Zoning Map
Amendment
11-6-20-02
Logan

Subject Properties

N

Vicinity Map

5B



Applicant:
Logan Properties
of Wilmington, LLC

Owner:
Logan Properties
of Wilmington, LLC

Zoning Map
Amendment
11-6-20-02
Logan

Subject Properties
Zoning Classification
General Business (GB)
General Industrial (GI)
Industrial Transition (IT)
Office & Institutional (OI)
Rural Agricultural (RA)
Planned Development (PD)
Residential Performance (RP)
Environmental Conservation (EC)
Incorporated Areas (INCORP)
Manufactured Home Park (MH)
Residential Mixed (MF)

N

Zoning

Applicant:
Logan Properties
of Wilmington, LLC

Owner:
Logan Properties
of Wilmington, LLC

Zoning Map
Amendment
11-6-20-02
Logan

Subject Properties
Conservation Area I
Conservation Area II
Rural Areas
Rural Clusters
Transition Areas
Urban Growth Areas

N

CAMA Land Use

Applicant:
Logan Properties
of Wilmington, LLC

Owner:
Logan Properties
of Wilmington, LLC

Zoning Map
Amendment
11-6-20-02
Logan

- Subject Properties
- Municipal ETJ
- Municipal Boundaries

2010 Land Use Classification

- Conservation
- Industrial
- Mixed Use
- Office, Institutional, Business
- Rural Growth
- Suburban Growth

N

2010 LUP

Applicant:
Logan Properties
of Wilmington, LLC

Owner:
Logan Properties
of Wilmington, LLC

Zoning Map
Amendment
11-6-20-02
Logan

Subject Properties

N

2008 Aerial

5C

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA-11-6-20-02 LOGAN	**Date**	3/10/11
Application Fee	$500	**Receipt No.**	107539
Pre-Application Conference	2/25/2011	**Hearing Date**	6/18/2011

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	**Logan Properties of Wilmington LLC**	**Owner's Name:**	**Logan Properties of Wilmington LLC**
Applicant's Address:	**3922 Rounding Bend Lane**	**Owner's Address:**	**3922 Rounding Bend Lane**
City, State, & Zip	**Wilmington, NC 28412**	**City, State, & Zip**	**Wilmington, NC 28412**
Phone Number:	**(910) 612-6127**	**Phone Number:**	**(910) 612-6127**

Legal relationship of applicant to owner: **Same**

SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	**4215-77-0924-0000** **4215-67-9855-0000**	**Total property acreage:**	**0.58 acres**
Current Zoning District:	**RP, Residential Performance**	**Proposed Zoning District:**	**GB, General Business**
Project Address :	**22581 US Highway 17, Hampstead**		
Description of Project Location:	**Corner of Stag Drive and US Highway 17, Hampstead**		

SECTION 3: SIGNATURES LOGAN PROPERTIES OF WILMINGTON, LLC			
Applicant's Signature	Stannie A. Logan William R. Logan	**Date:**	3/8/2011
Owner's Signature	Stannie A. Logan William R. Logan	**Date:**	3/8/2011

NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Rezoning Checklist.
2. Applicant or agent authorized in writing must attend the public hearing.
3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Planning Board or other authorized person agrees to table or delay the hearing.
4. All fees are non-refundable
5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda

Rezoning/Zoning Map Amendment Checklist

☑	Signed application form
☑	Application fee
☑	A list of names and addresses, as obtained from the county tax listings and tax abstract, all adjacent property owners, including property owners directly across any road or road easement, and owners of the property under consideration for rezoning.
☑	Two (2) business size envelopes legibly addressed with **first class** postage for each of the adjacent and abutting property owners on the above list.
☑	Accurate legal description or a map drawn to scale showing the property boundaries that are to be rezoned, in sufficient detail to for the rezoning to be located on the Official Zoning Map.
☑	18 (11"x17") map copies to be distributed to the Planning Board
☑	20 (11"x17") map copies to be distributed to the Board of Commissioners
☐	Digital (.pdf) submission of all application materials
☑	A description and/or statement of the present and proposed zoning regulation or district boundary and stating why the request is being made and any information that is pertinent to the case. If the owner and applicant are different, the letter must be signed by both parties.

Office Use Only

☑	**ZMA Fees:** (*$500.00 for first 5 acres; $10/acre thereafter up to 1,000 acres; $5/acre thereafter*)	**Total Fee Calculation: $** 500

Attachments Included with Application: (Please include # of copies)

CD /other digital version	☑ Y ☐ N	Plan Sets	# of large	# of 11X17	Other documents/Reports	☑ Y ☐ N

Payment Method:	**Cash :** ☐ $_____	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☒ Check # 1247

Application received by:	[signature]	**Date:** 3/10/11
Application completeness approved by:	[signature]	**Date:** 3/11/11

Dates scheduled for public hearing:
☑ **Planning Board:** 5/3/11
☑ **Board of Commissioners:** 6/20/11

RETURN COMPLETED APPLICATION TO:

Pender County Planning & Community Development
805 South Walker Street
P.O. Box 1519
Burgaw, NC 28425

Re: Rezoning Application for 22581 U.S. Highway 17 N, Hampstead, NC
Property Identification Numbers:
4215-77-0924-0000
4215-67-9855-0000

The property identified above is currently zoned as Residential Performance (RP). We are asking for rezoning of this property to General Business (GB).

The primary reasons for this request are:

1) this entire area is moving toward commercial development and the properties on either side, as well as many other properties in the general vicinity, are already zoned GB;

2) we would like our property to conform to the others in the same area fronting Highway 17;

3) we would like for the current tenant and future tenants to have the option of operating a business from this location that would be permitted within the General Business (GB) zoning.

Re: Rezoning Application for 22581 U.S. Highway 17 N, Hampstead, NC
Property Identification Numbers:
4215-77-0924-0000
4215-67-9855-0000

LIST OF ADJACENT PROPERTY OWNERS

1) Tower Properties 17, LLC
508 Navigator Drive
Hampstead, NC 28443

2) Walter Sniff
2040 Watts Landing Road
Hampstead, NC 28443

3) TC of Hampstead, LLC
c/o Ray C. Blackburn
PO Box 895
Hampstead, NC 28443

4) Mary H. Noland et al
3514 Crymes Road
Meherrin, VA 23954

5) Pamela K. Springer et al
473 Groves Point Drive
Hampstead, NC 28443

6) PM & M, Inc.
PO Box 280
Hampstead, NC 28443

7) Dogwood Lakes, LLC
210 Airport Road, Ste 200
Mount Airy, NC 27030

EXHIBIT "A"

Tract One:

Adjacent to and Northwest of the Northwestern right-of-way line of U.S. Highway No. 17, containing 0.488 acre, more or less, and being more fully described as follows:

Located in Topsail Township, Pender County, North Carolina adjacent to and Northwest of the Northwestern Right-of-Way line (50 feet from centerline) of U.S. Highway No. 17 and being more fully described as follows, to wit:

BEGINNING at a point in the Northwestern Right-of-Way line of U.S. Highway No. 17, said point of being located along said line at a point that is North 00 Degrees 47 Minutes 04 Seconds East 32.06 feet (N.C. Grid-NAD 27) from N.C. Grid Monument "HALL"; and running thence, from the BEGINNING, so located,

(1) with the Northwestern Right-of-Way line of U.S. Highway No. 17 South 59 Degrees 45 Minutes 25 Seconds West 105:00 feet to an iron pipe in line; thence,
(2) North 35 Degrees 29 Minutes 57 Seconds West 203.15 feet to an iron pipe in an old line; thence,
(3) with said old line North 59 Degrees 48 Minutes 13 Seconds East 105.00 feet to an old iron rod in a broken iron pipe; thence,
(4) South 35 Degrees 30 Minutes 05 Seconds East 203.06 feet (passing over an inline iron pipe at 202.46 feet) to the BEGINNING, containing 0.488 acres more or less and is as surveyed by Thompson Surveying Co., P.A. of Burgaw, North Carolina during January 1992.

As a reference to the above-described tract see Book 783, at Page 336 of the Pender County Registry.

Less and Except the following:

The right of way located in Topsail Township, Pender County, North Carolina, which is particularly described as follows:

Beginning at the southwestern property corner of the Grantors; Thence running in a northwestern direction along the southwestern property line of the Grantors to the point of intersection with the northwestern proposed right of way line of the project, said right of way line at this location being a straight line between a point located 130 feet northwest of and normal to Survey Station 1050+08.51, Survey Line L and a point located 135 feet northwest of and normal to Survey Station 1962+00, Survey Line L; Thence running in a straight line in a northeastern direction, said line if extended would intersect a point located 135 feet northwest of and normal to Survey Station 1062+00, Survey Line L, to the point of intersection with the northeastern property line of the Grantors; Thence running along the northeastern property line of the Grantors in a southeastern direction to the southeastern property corner of the Grantors; Thence running along the southeastern property line of the Grantors in a southwestern direction to the point of the Beginning.

Tract Two:

Located in Topsail Township, Pender County, North Carolina, adjacent to and Northwest of the Northwestern Right-of-Way line of U.S. Highway No. 17 and being more fully described as follows, to wit:

BEGINNING at an iron stake in the new Northwestern Right-of-Way line of U.S. Highway No. 17, said iron stake being located along said line at a point that is the following courses and distances (N.C. Grid-N.A.D. 27) from N.C. Grid Monument "HALL": South 77 Degrees 18 minutes 29 Seconds West 92.52 feet and North 35 Degrees 29 Minutes 57 Seconds West 83.99 feet to the Beginning; and running thence, from the Beginning, so located,

(1) With the Northwestern Right-of-Way line of U.S. Highway No. 17 South 59 Degrees 40 Minutes 32 Seconds West 106.87 feet to an iron stake in said line; thence,

(2) North 36 Degrees 06 Minutes 38 Seconds West 119.57 feet to an existing iron pipe inline; thence,

(3) North 59 Degrees 52 Minutes 29 Seconds East 108.19 feet to an existing iron pipe inline; thence,

(64)

PLANNING STAFF REPORT
Zoning Map Amendment

SUMMARY:

Hearing Date: June 20, 2011 - Board of County Commissioners
Application Number: ZMA 11-06-20-03 Simpson
Applicant: Albert and Beatrice Simpson
Property Owner: Same

Rezoning Proposal: The request consists of rezoning one tract from RP, Residential Performance to GB, General Business District.

Property Record Numbers, Acreage, and Location: The property consists of one tract which is identified as PIN 4215-21-7089-0000. The total area is 14.49 acres. The property is located on US Highway 17, just south of the intersection of US Highway 17 and Sloop Point Road in Hampstead.

Staff Recommendation: Staff respectfully recommends approval of the request.

DESCRIPTION:

The applicant is proposing a general use rezoning for one tract totaling 14.49 acres from RP, Residential Performance to GB, General Business. The property has frontage along US Highway 17 and is currently vacant and undeveloped.

The applicant has stated a desire to allow the property to be utilized for a greater variety of commercially-oriented uses and that the rezoning from RP to GB would be in harmony with the surrounding parcels currently zoned GB.

TECHNICAL REVIEW COMMITTEE (TRC) RESPONSES:

Cape Fear Council of Governments RPO
Applicants will need to submit for a driveway permit from NC DOT for any change in use.

Four County Electric Company
No response.

NC DENR Division of Coastal Management
No response.

NC DENR Division of Forestry
No response.

NC DENR Division of Land Resources
No response.

NC DENR Division of Waste Management

No response.

NC DENR Division of Water Quality
No response.

NC DOT Division of Highways
No comment.

NC DOT Transportation Planning Branch
No response.

NC Office of State Archaeology
No response.

NC Wildlife Resources Commission
No response.

Pender County Building Inspections
No response.

Pender County Emergency Management
No response.

Pender County Environmental Health
No comment.

Pender County Fire Marshal
No comment.

Pender County Parks and Recreation
No comment.

Pender County Public Library
No response.

Pender County Public Utilities
No comment.

Pender County Schools
No response.

Pender County Sheriff's Department
No response.

Pender County Soil and Water Conservation District
No response.

Progress Energy Corporation
No response.

US Army Corps of Engineers
No response.

Wilmington Metropolitan Planning Organization
Although the request is outside of the WMPO planning area, the WMPO recommends that any development on this parcel include provision for interconnectivity and cross access to adjacent parcels, especially to the land locked parcel to the south.

EVALUATION:

A) Public Notifications: Public Notice of the proposal for map change has been advertised in the Pender Post and Topsail Voice. Adjacent property owners have been given written notice of the request.

B) Existing Zoning in Area: The zoning of the adjacent parcels are a mix of commercial and residential zoning districts. The parcels to the northeast of the subject parcel are zoned General Business and some feature existing non-residential uses including the Hilltop Grocery. Non-residential uses are found across US Highway 17 from the subject parcel, including the Topsail Senior Center and Pender Pines. Blakes Chapel Church is situated on an adjacent parcel zoned Office and Institutional. Two parcels to the southwest along US Highway 17 are zoned Residential Performance but are currently vacant and undeveloped. The nearest single family residential use is approximately 700 feet southwest of the subject property on a parcel zoned General Business.

C) Existing Land Use in Area: The existing land use in the area includes residential, office and institutional, commercial, and vacant and undeveloped tracts, as described above.

D) 2005 CAMA Land Use Plan Compliance: The 2005 CAMA Land Use Plan classifies the subject property as Rural Areas, which recommends very low-density residential uses, home-based businesses, and other businesses traditionally associated with rural farm areas and extraction activities. The subject parcel also contains areas classified as Conservation Area II by the 2005 Plan. This classification is given to areas that may impact public health or areas where there are significant development limitations, as is the case at the subject parcel. The Conservation Area II areas on the subject parcel suggest the presence of non-coastal wetlands (404 Jurisdictional wetlands), and any development in these areas must adhere to all application local, state, and federal regulations.

E) 2010 Comprehensive Land Use Plan Compliance: The 2010 Comprehensive Land Use Plan classifies the subject property as Mixed Use, which is a land use classification designating locations where a mixture of higher density/intensity uses are to be encouraged.

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.*

G) Summary & Staff Recommendation: The proposal consists of rezoning two tracts totaling 14.49 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 2010 Comprehensive Land Use Plan. Therefore, staff respectfully recommends that the request be approved.

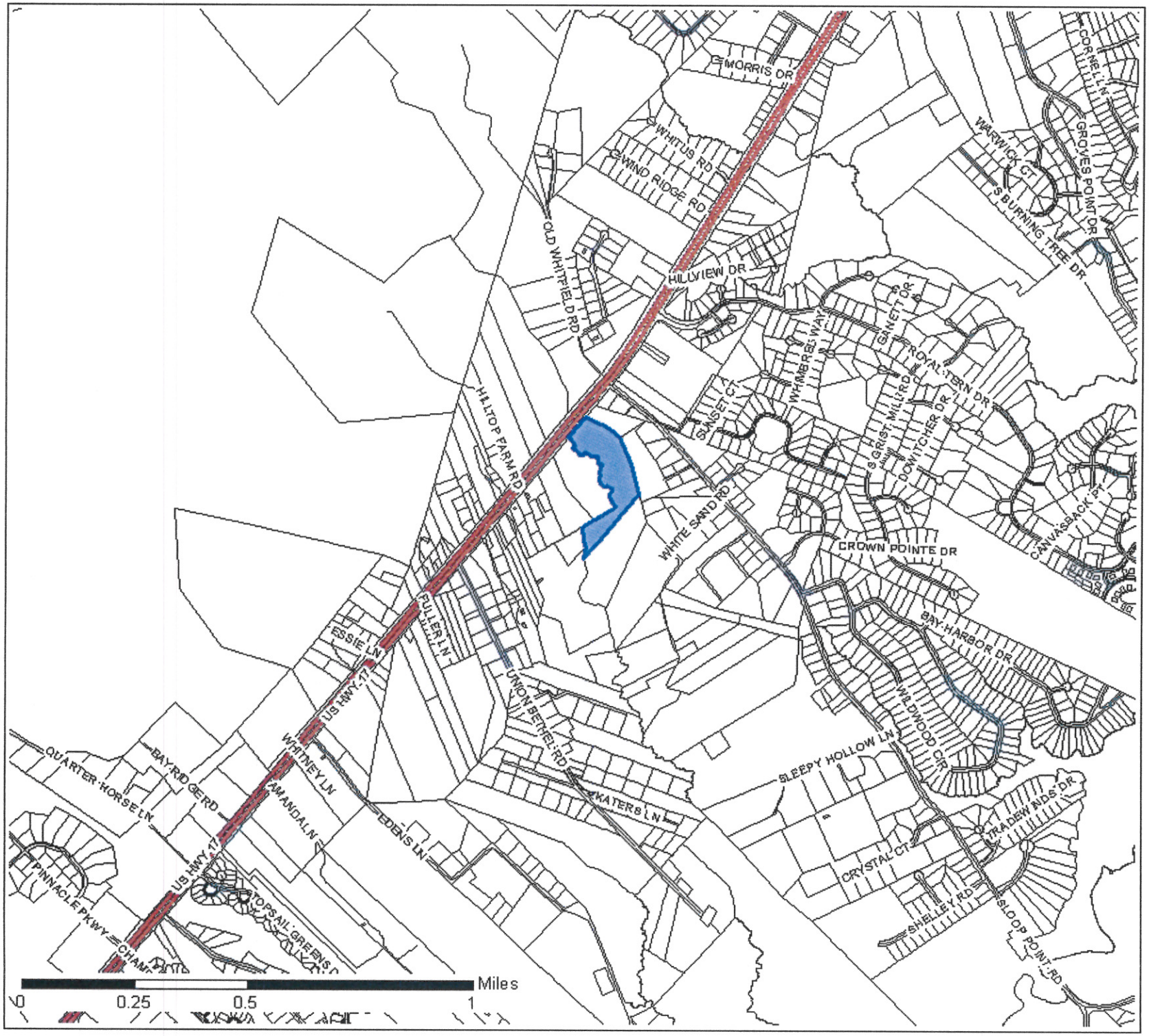
VOTING AND RESOLUTION:

Planning Board

Motion:_____Seconded: _____

Approved: _____Denied:_____Unanimous:_____

Boney ____Smith_____Edens_____Garrett _____Marshburn _____ Millette ____ Williams __



Applicant:
Albert and
Beatrice Simpson

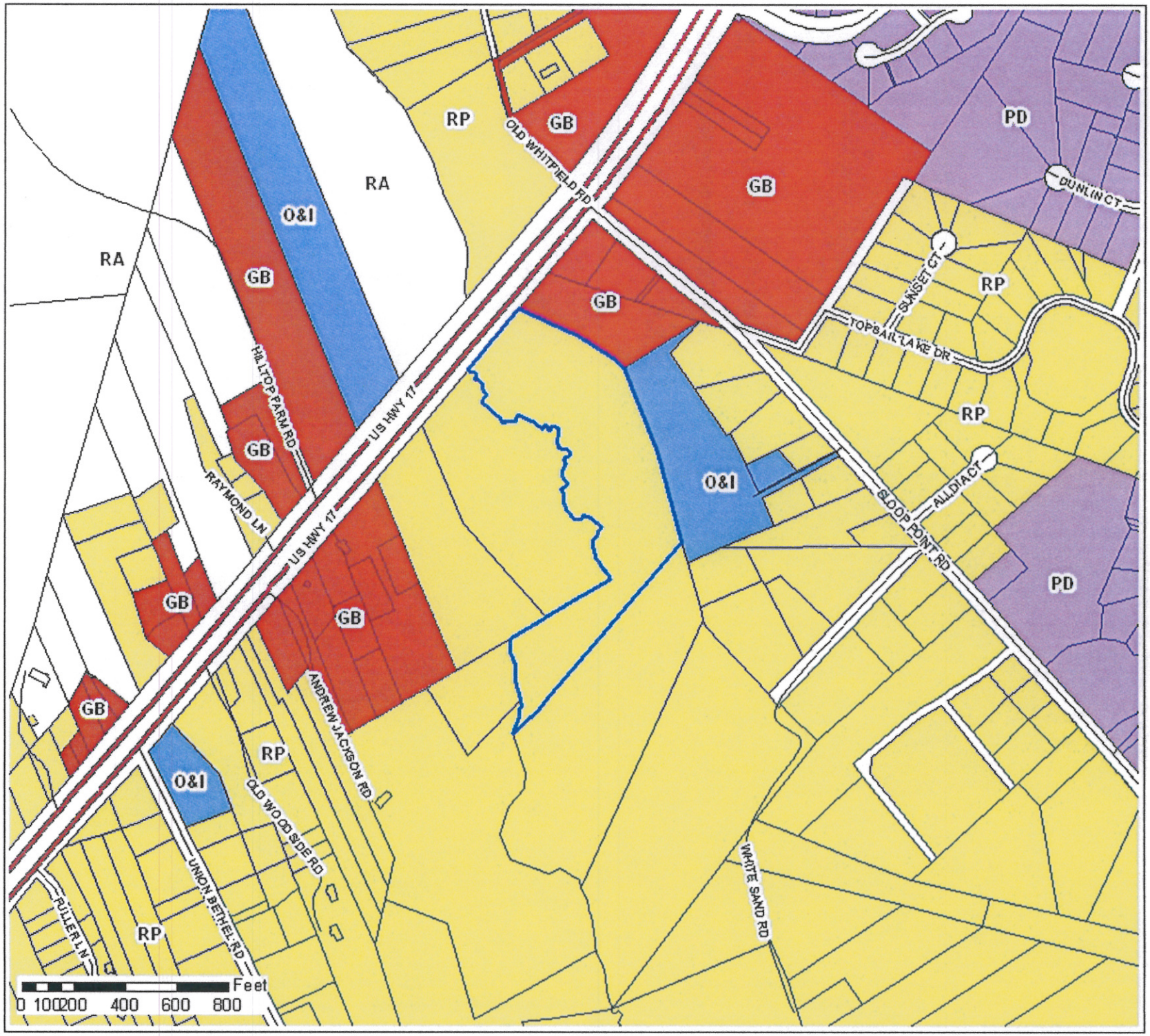
Owner:
Albert and
Beatrice Simpson

Zoning Map
Amendment
11-6-20-03
Simpson

Subject Property

Vicinity Map

68



Applicant:
Albert and
Beatrice Simpson

Owner:
Albert and
Beatrice Simpson

Zoning Map
Amendment
11-6-20-03
Simpson

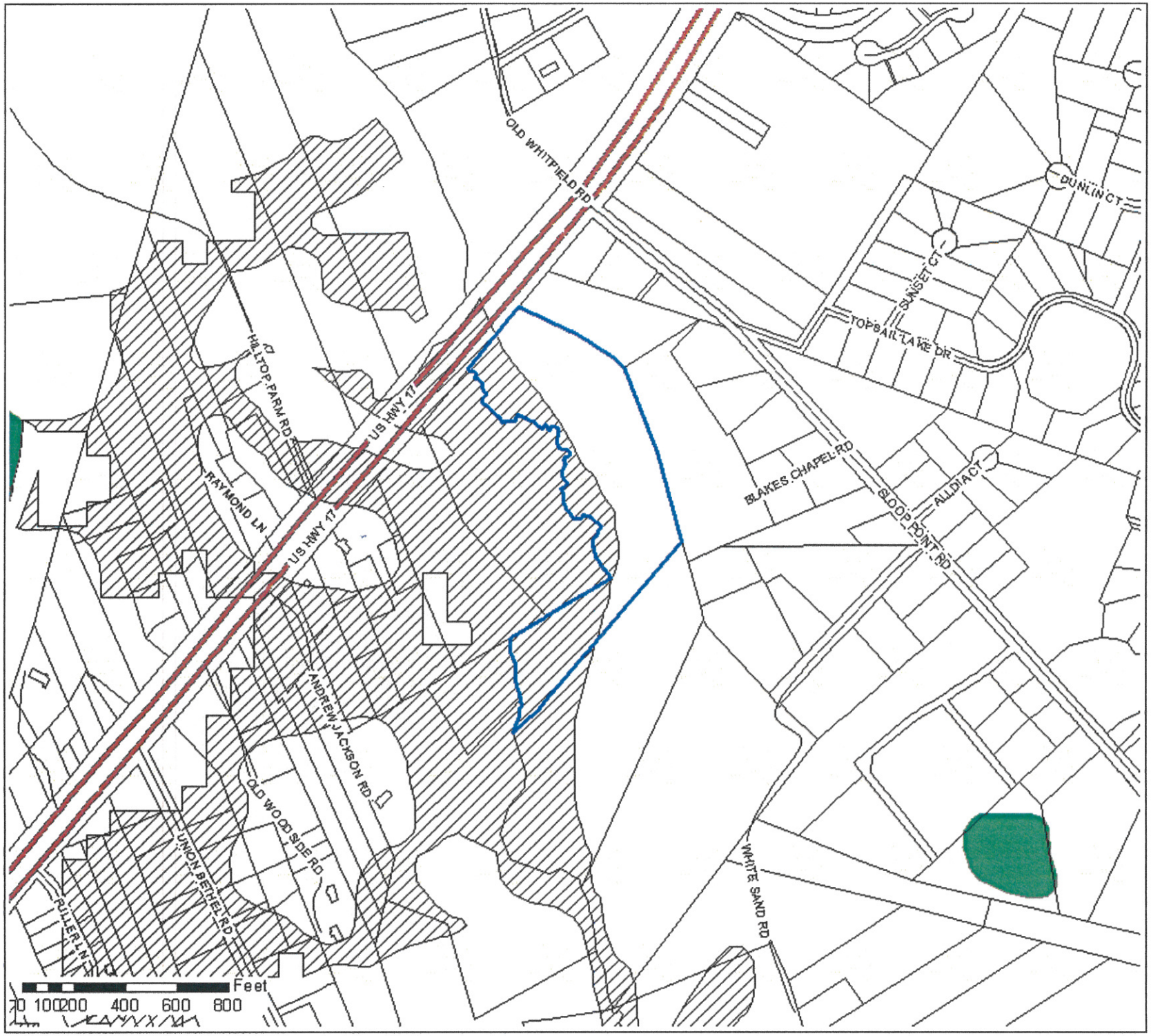
- Subject Property

Zoning Classification

- General Business (GB)
- General Industrial (GI)
- Industrial Transition (IT)
- Office & Institutional (OI)
- Rural Agricultural (RA)
- Planned Development (PD)
- Residential Performance (RP)
- Environmental Conservation (EC)
- Incorporated Areas (INCORP)
- Manufactured Home Park (MH)
- Residential Mixed (MF)

N

Zoning



Applicant:
Albert and
Beatrice Simpson

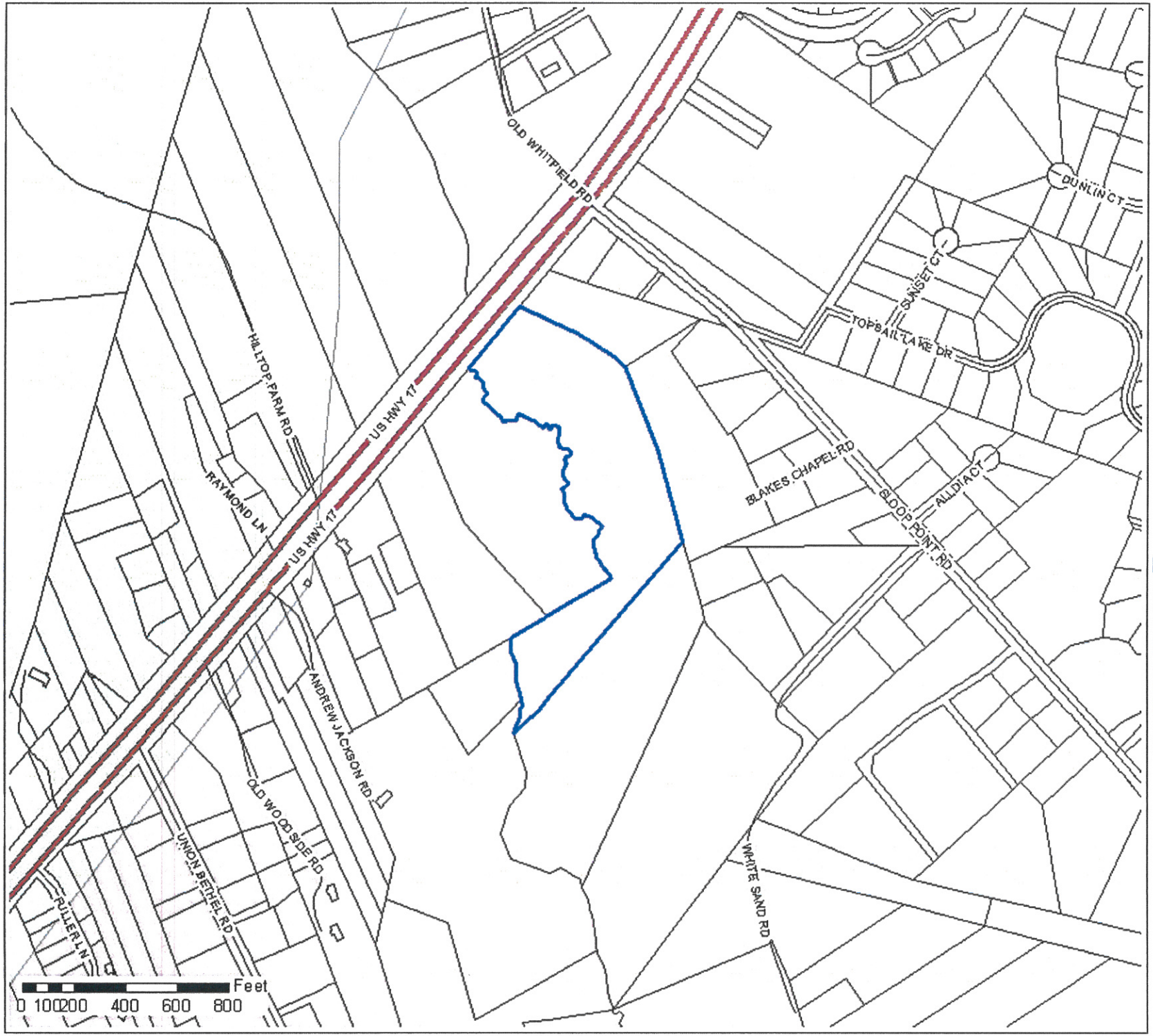
Owner:
Albert and
Beatrice Simpson

Zoning Map
Amendment
11-6-20-03
Simpson

- Subject Property
- Conservation Area I
- Conservation Area II
- Rural Areas
- Rural Clusters
- Transition Areas
- Urban Growth Areas

N

CAMA Land Use



Applicant:
Albert and
Beatrice Simpson

Owner:
Albert and
Beatrice Simpson

Zoning Map
Amendment
11-6-20-03
Simpson

- Subject Property
- Municipal ETJ
- Municipal Boundaries

2010 Land Use Classification

- Conservation
- Industrial
- Mixed Use
- Office, Institutional, Business
- Rural Growth
- Suburban Growth

N

2010 LUP

Applicant:
Albert and
Beatrice Simpson

Owner:
Albert and
Beatrice Simpson

Zoning Map
Amendment
11-6-20-03
Simpson

Subject Property

N

2008 Aerial

6C

APPLICATION FOR REZONING (Zoning Map Amendment)

THIS SECTION FOR OFFICE USE			
Application No.	ZMA - 11-6-20-03 Simpson	**Date**	3/18/2011
Application Fee	$ 594.00	**Receipt No.**	107541
Pre-Application Conference	3/10/11	**Hearing Date**	PB- 5/3/11, BOC 6/20/11

SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Albert F. Simpson & wife, Beatrice M. Simpson	**Owner's Name:**	Albert F. Simpson & wife Beatrice M. Simpson
Applicant's Address:	Post Office Box 1611	**Owner's Address:**	Post Office Box 1611
City, State, & Zip	Elizabethtown, NC 28337	**City, State, & Zip**	Elizabethtown, NC 28337
Phone Number:	(910) 991-1938	**Phone Number:**	(910) 991-1938

Legal relationship of applicant to owner: SAME

SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	4215-21-7089-0000	**Total property acreage:**	14.49 Acres +/-
Current Zoning District:	Residential Performance	**Proposed Zoning District:**	General Business
Project Address :	US Highway No. 17; Hampstead, NC 28443		
Description of Project Location:	14.49 acres unimproved land located on US Highway 17 approximately 500 feet from Sloop Point Road		

SECTION 3: SIGNATURES			
Applicant's Signature	Albert F. Simpson Beatrice M. Simpson	**Date:**	
Owner's Signature	Albert F. Simpson Beatrice M. Simpson	**Date:**	

NOTICE TO APPLICANT

1. Applicant must also submit the information described on the Rezoning Checklist.
2. Applicant or agent authorized in writing must attend the public hearing.
3. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Planning Board or other authorized person agrees to table or delay the hearing.
4. All fees are non-refundable
5. A complete application packet must be submitted prior to the deadline in order to be placed on the next Planning Board Agenda

Rezoning/Zoning Map Amendment Checklist

☑	Signed application form
☑	Application fee
☑	A list of names and addresses, as obtained from the county tax listings and tax abstract, all adjacent property owners, including property owners directly across any road or road easement, and owners of the property under consideration for rezoning.
☑	Two (2) business size envelopes legibly addressed with **first class** postage for each of the adjacent and abutting property owners on the above list.
☑	Accurate legal description or a map drawn to scale showing the property boundaries that are to be rezoned, in sufficient detail to for the rezoning to be located on the Official Zoning Map.
☑	18 (11"x17") map copies to be distributed to the Planning Board
☑	20 (11"x17") map copies to be distributed to the Board of Commissioners
☐	Digital (.pdf) submission of all application materials
☑	A description and/or statement of the present and proposed zoning regulation or district boundary and stating why the request is being made and any information that is pertinent to the case. If the owner and applicant are different, the letter must be signed by both parties.

Office Use Only

☑	**ZMA Fees:** (*$500.00 for first 5 acres; $10/acre thereafter up to 1,000 acres; $5/acre thereafter*)	**Total Fee Calculation: $** 594.00

Attachments Included with Application: (Please include # of copies)

CD /other digital version	☑ Y ☐ N	Plan Sets	# of large	# of 11X17	Other documents/Reports	☑ Y ☐ N

Payment Method:	**Cash :** ☐ $_____	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☑ Check # 12531

Application received by:	BOD	**Date:** 3/18/11
Application completeness approved by:	BOD	**Date:** 3/21/11

Dates scheduled for public hearing:
☑ **Planning Board:** 5/3/11
☑ **Board of Commissioners:** 6/20/11

RETURN COMPLETED APPLICATION TO:

Pender County Planning & Community Development
805 South Walker Street
P.O. Box 1519
Burgaw, NC 28425

ADDENDUM TO APPLICATION FOR REZONING

Albert F. Simpson and wife, Beatrice M. Simpson (Owners and Applicants)

The current zoning of the parcel having the assigned Pender County Parcel Identification Number 4215-21-7089-0000 is Residential Performance. This tract consists of approximately 14.49 acres which is shown on the attached map.

We would like the above-referenced tract to be rezoned to General Business since this would be consistent with zoning of the parcel that is immediately adjacent to ours on the North and those parcels that are approximately 575 feet South of ours. Having the property rezoned from Residential Performance to General Business would allow the property to be utilized for a greater number of uses than those allowed within the Residential Performance zoning district. Further, the parcel is located immediately adjacent to U.S. Highway No. 17, which is a corridor for the location of general businesses that serves the residential communities located east of U.S. Highway No. 117 to the Intercoastal Waterway, as well as to the general public. Additionally, the rezoning of the parcel to General Business would be consistent with a significant number of the parcels located on the east side of U.S. Highway No. 17 and north of our parcel.

Albert F. Simpson

Albert F. Simpson

Beatrice M. Simpson

Beatrice M. Simpson

LISTING OF AJOINING PROPERTY OWNERS

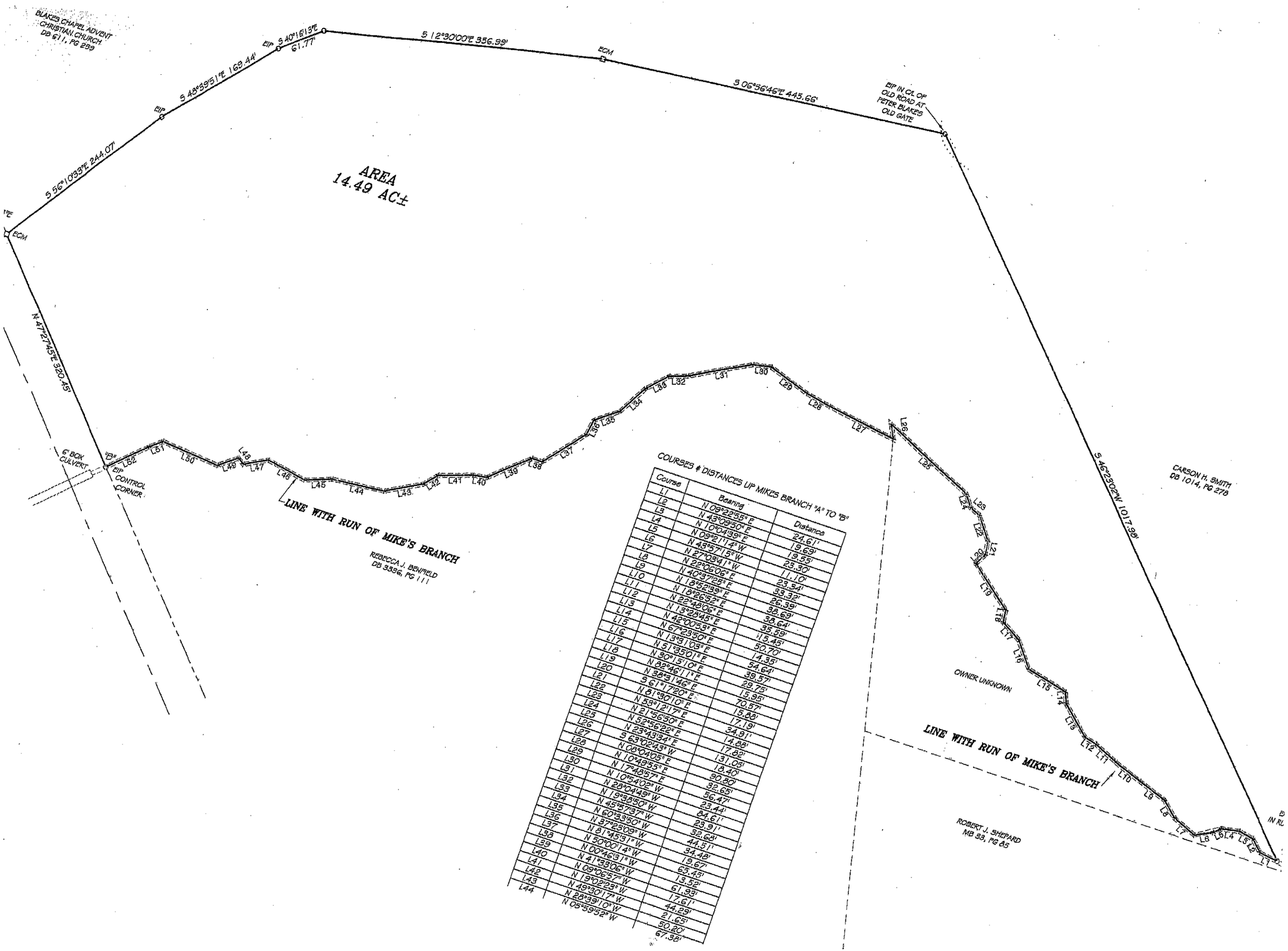
Robert J. Shepard, Sr., Trustee
243 Tabbs Lane
Newport News, VA 23602

Rebecca Jane Day Benfield et al.
2306 Deal Place
GreenvIlle, NC 27858

Carolina Power & Light Company
Post Office Box 14042
St. Petersburg, FL 33733

Blakes Chapel Advent Christian Church
248 Sloop Point Road
Hampstead, NC 28443

Carson Henry Smith et al.
25 Hidden Bluff Trail
Hampstead, NC 28443



COURSES & DISTANCES UP MIKES BRANCH "A" TO "B"

Course	Bearing	Distance
L1	N 09°32'55" E	24.61'
L2	N 43°09'50" E	19.69'
L3	N 10°04'39" E	19.55'
L4	N 09°21'14" E	23.30'
L5	N 49°57'15" W	11.10'
L6	N 27°09'41" W	23.94'
L7	N 22°06'06" W	33.32'
L8	N 40°37'26" E	26.39'
L9	N 13°52'39" E	38.69'
L10	N 18°26'52" E	34.64'
L11	N 22°48'06" E	35.59'
L12	N 13°28'45" E	15.45'
L13	N 42°00'53" E	50.70'
L14	N 67°23'50" E	14.35'
L15	N 13°31'03" E	54.64'
L16	N 51°35'01" E	39.57'
L17	N 30°15'10" E	29.75'
L18	N 82°46'11" E	15.95'
L19	S 61°31'46" E	70.57'
L20	N 38°31'20" E	15.88'
L21	N 81°30'10" E	17.19'
L22	N 58°12'17" E	34.91'
L23	N 21°56'50" E	14.88'
L24	N 52°56'22" E	17.82'
L25	S 63°43'34" E	131.05'
L26	N 08°02'43" W	18.40'
L27	N 10°44'05" E	90.80'
L28	N 17°48'55" E	32.65'
L29	N 10°57'21" E	56.47'
L30	N 28°54'02" W	23.44'
L31	N 19°38'49" W	64.61'
L32	N 45°57'50" W	23.91'
L33	N 60°33'37" W	32.68'
L34	N 37°23'50" W	44.51'
L35	N 81°45'09" W	34.48'
L36	N 50°00'31" W	19.67'
L37	N 00°46'14" W	65.45'
L38	N 41°33'31" W	13.52'
L39	N 09°06'06" W	61.93'
L40	N 19°02'57" W	17.61'
L41	N 49°30'29" W	44.29'
L42	N 28°39'17" W	21.65'
L43	N 08°59'10" W	50.20'
L44	N 05°59'52" W	67.38'

7A

PLANNING STAFF REPORT
Zoning Text Amendment

SUMMARY:

Hearing Date: Planning Board – May 3, 2011
Board of County Commissioners – May 16, 2011
Applicant: Administrator, Division of Planning
Application Number: ZTA 11-05-16-04 Pender County

Text Amendment Proposal: The request consists of amending the following articles within the Pender County Unified Development Ordinance: Article 2; Article 3; Article 4.6.5 C & 4.7.2A5; Article 5.2.3, 5.3.2C, 5.3.3.E.3)a)iii)c. & 5.3.10A; Article 6; Article7.1.3A1; Article 9.5.1A1 & 9.10; Article 10.4.3B and Appendix A, Definitions; along with the creation of an additional Article 7, Appendix D and reformatting of Articles 1-12 and Appendices A-D for corrected references.

Background: The following text amendments are the result of various administrative discussions and situational circumstances that have been brought to Staff's attention since the approval of the previous amendment.

Administrator Recommendation: Administrator respectfully recommends **amending** the requested Articles as described in the staff report:

The following outline describes the proposed amendments by Article. The proposed amendments clarify development review procedures and requirements, clarify various issues that have arisen, and proposes new regulations concerning inter-parcel connections for non-residential development. The following is a description, by Article, of the changes that are proposed. Along with the text changes throughout the document, references to similar articles will be updated. A detailed packet of all the changes is included in the informational packet which has been distributed to accompany this report.

Article 1 – General Provisions
No Changes Proposed

Article 2 – Decision Making and Administrative Bodies
Section 2.11, the Summary of Review Authority is a table which outlines each development type and who is responsible for reviewing, recommending, or who the decision making authority may be. Staff is proposing to amend this table to comprehensively cover every type of development application or appeal for the applicant's ease of use and understanding.

Article 3 – Review Procedures
Review procedures are intended to provide guidelines for the various steps in review, recommendation, and approval for various types of applications. Currently, Article 3 includes standards for development applications which would be more appropriately located within Article 6, Development Requirements and Content. Staff is proposing to omit redundant language and rearrange guidelines to be included in Articles 6 and 7.

Article 4 – Zoning Districts

Staff is proposing clarifying language to determine the measurement of lot width. Also, the phasing requirements to record lots in the RP, Residential Performance District, have been clarified to match final plat requirements for all zoning district types.

Article 5 – Permitted Uses

Staff is proposing to add development standards for "Private Cemeteries". Currently, private cemeteries are limited to ten (10) plots or less. With this provision, it is very difficult to enforce the size and intensity of use of said private cemetery. Private cemeteries would now be restricted based on an area less than 6,000 square feet, which is ample to support 10 plots (plots have a liberal average area of 5'x12') as well as the required 25' setback from property line of burials or monuments. Additionally, this revision would require a special use permit for private cemeteries 6,000 square feet or larger, which retains the intent of the previous language. Also within Article 5, the development standards for parking/storing of recreational vehicles have been clarified.

Article 6 – Development Requirements and Content

Referring back to Article 3 proposed amendments, this Article would contain all requirements and contents of development plans. This includes requirements and contents for Master Development Plans, subdivisions, and non-residential type developments.

Article 7 – Design Standards (NEW ARTICLE)

Proposed Article 7 is a new Article which will include standards related to road design, lot design, access, off-street parking, open space requirements, and other design related regulations. These regulations are taken from previous Articles 3 and 6 for the clarity and ease of use of the Unified Development Ordinance. Staff is proposing to add language requiring cross access corridors which are inter-parcel connections for adjoining non-residential type development. There is a provision allowing the Administrator to waive this requirement in such cases of environmental and safety concerns.

Article 8 – Landscaping *Previous Article 7

Proposed change includes requiring a Significant Tree Survey for Industrial zoned property. Currently, a Significant Tree Survey is only required prior to development for commercial and mixed use zoning districts. Preservation of significant trees, as defined, adds to the character and preservation of developed sites.

Article 9 – Flood Damage Prevention *Previous Article 8

No Changes Proposed

Article 10 – Signs *Previous Article 9

Staff interpretation and discussions with the Planning Board have resulted in proposed clarifying language to address on and off premise real estate signage. Staff is proposing language which allows for the placement of directional off-premise real estate signage with significant design and regulation criteria to be met by the applicant. These types of signs will be limited to one per development and must be separated by at least 300' from the nearest directional off-premise real estate signage.

Article 11 – Nonconformities *Previous Article 10

Staff is proposing to delete conflicting language referencing non-conforming structures.

Article 12 – Enforcement and Penalties *Previous Article 11
No Changes Proposed

Appendix A – Definitions
Staff is proposing to add five (5) new or clarifying definitions. These include: Cottage Occupation, Cross Access, Environmental Features, Lot Width, and Private Cemetery.

Appendix D – Typical Forms and Surveyor Notes
The proposed Appendix D will include surveyor notes for recording plats, sample financial guarantee forms, private road disclosure statement, and family division statements.

The proposed changes have been advertised in the Pender Post and Topsail Voice on Wednesday, April 20th, 27th, May 4th, and Wednesday, May 11, 2011.

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.

Comprehensive Land Use Plan Compliance:
Policy 2B.1.12
The County should consider conducting studies and engaging in special planning initiatives for major transportation corridors within its jurisdiction to implement supportive plans and ordinances to assist in accomplishing the following objectives: *preserving and maintaining existing and future transportation facilities and corridors; improving safety, site access and design standards.*

There are no other conflicting policies within any adopted land use documents.

Staff Recommendation:
The proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements; therefore, staff is recommending approval of the amendments as presented.

Planning Board

Motion:_____Seconded:_____

Approved:_____Denied:_____Unanimous_____

Boney ___ Smith ___ Edens ___ Garrett ___ Marshburn ___ Millette ___ Williams___

7B

APPLICATION FOR TEXT AMENDMENT

THIS SECTION FOR OFFICE USE			
Application No.	ZTA 11-05-16-04 Pender County	**Date**	3/18/2011
Application Fee	$ N/A	**Receipt No.**	N/A
Pre-Application Conference	12/13/2010	**Hearing Date**	PB - 5/3/2011 BOCC - 5/16/2011

SECTION 1: APPLICANT INFORMATION

Applicant's Name:	Pender County Planning and Community Development
Applicant's Address:	805 South Walker Street
City, State, & Zip	Burgaw, NC 28425
Phone Number:	910-259-1202

SECTION 2: UDO TEXT TO BE AMENDED

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

Article 2; Article 3; Article 4.6.5 C & 4.7.2A5; Article 5.2.3, 5.3.2C, 5.3.3.E.3)a)iii)c,& 5.3.10A; Article 6; Article7.1.3A1; Article 9.5.1A1 & 9.10; Article 10.4.3B and Appendix A, Definitions; along with the creation of an additional Article 7 Appendix D and reformatting of Articles 1-12 and Appendices A-D for corrected references.

Proposed Text to be added:

Please see attached language and location matrix.

SECTION 3: SIGNATURE

Applicant's Signature		**Date:**	3/18/2011

NOTICE TO APPLICANT

If the applicant makes significant changes to the application for a text amendment after the Planning Board has made its recommendation, the Administrator may refer the modified request back to the Planning Board for an additional public hearing.

TEXT AMENDMENT CHECKLIST

☑	Signed application form
N/A	Application fee
☑	A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Article 3.16.5 of the Pender County UDO (shown on page 1 of this application

Office Use Only

N/A **ZTA Fees:** $250		**Total Fee Calculation:**	
Payment Method: N/A	**Cash :** ☐ $_____	**Credit Card:** ☐ Master Card ☐ Visa	**Check:** ☐ Check # _____

Application Received By:	KB	Date:	3/18/2011
Application completeness approved by:	KB	Date:	3/18/2011
Dates Scheduled for Public Hearings:	☑ Planning Board: 5/3/2011	☑ BOC:	5/16/2011

Print Form

Location Matrix

	Existing Articles	Topic	Proposed Articles
Article 3	3.5.5 A	Master Development Plan (MDP)	6.1.1
	3.5.5 B	MDP Contents Residential	6.1.2, 6.1.4
	3.5.5 C	MDP Contents Non- Residential	6.1.3, 6.1.4
	3.6.1	Prelim Plat Pre Application Conference	3.7.2, 3.8.2
	3.6.2	Prelim Plat Contents	6.4
	3.6.3	Prelim Plat Review Procedures	3.7.3, 3.8.3
	3.6.4	Dedication and Improvements	3.7.4, 3.8.4
	3.6.5	Inspections of Required Improvements	3.7.5, 3.8.5
	3.6.6	Project Completion	3.7.6, 3.8.6
	3.6.7	Appeals	3.7.7, 3.8.7
	3.7	Sketch Development Plans (SDP)	3.11
	3.7.1	SDPs application/approval	3.11.1
	3.8	Minor Site Development Plan (MSDP)	3.6
	3.8.1	Intent of MSDP	3.6.1
	3.8.2	Activities Requiring a MSDP	3.6.2
	3.8.3	Review of MSDP	3.6.3
	3.8.4	Contents of MSDP	6.2
	3.9	Major Site Development Plan	3.7
	3.9.1	Activities Requiring a Major Site DP	3.7.1
	3.9.2	Major Site Review	3.7.2
	3.9.3	Contents of Major Site DP	6.3
	3.10	Special Use Permits (entire section)	3.12
	3.11	Vested Rights (entire section)	3.13
	3.12	Variance (entire section)	3.14
	3.13	Administrative Adjustment (entire section)	3.15
	3.14	Appeal of Admin Decision (entire section)	3.16
	3.15	Written Interpretation (entire section)	3.17
	3.16	Ordinance Text Amendment (entire section)	3.18

	Existing Articles	Topic	Proposed Articles
Article 6	6.1	General	3.8
	6.1.1	Applicability	3.8.1
	6.2	Family Subdivision & Approval requirements	6.6
	6.2.1	Limitations	6.6.1
	6.2.2	Requirements	6.6.2
	6.2.3	Collateral Kinship Statement	Appendix D
	6.3	3 Lot Division adjacent to NCDOT Road	6.7
	6.3.1	Submission and Approval Requirements	6.7.1, 6.7.2
	6.4	3 Lot Division on an Access Easement	6.8
	6.4.1	Submission and Approval Requirements	6.8.1, 6.8.2
	6.5	Minor Subdivision	3.9
	6.5.1	Submission and Approval Requirements	3.9.3
	6.6	Major Subdivision Submission/Approval	3.10
	6.6.1	Submission/Requirements/General Provisions	3.10.1
	6.6.2	Plat Contents	6.4 B
	6.6.3	More Material	6.4 C
	6.7	Final Plat	6.5
	6.7.1	Submission/Requirements/General Provisions	6.5 A
	6.7.2	Additional Material to Be Submitted	6.5 B
	6.8	Certificates required	6.5 C
	6.9	Drainage Facilities and Utility Easements	7.9
	6.10	Lot Design	7.2
	6.10.1	Requirements	7.2.1
	6.10.2	Waste water system requirements	7.7
	6.10.3	Access to Adjacent Properties	7.2.2
	6.10.4	Double Frontage Lots	7.2.3
	6.10.5	Lot Line Configuration	7.2.4
	6.10.6	Lot Lines & Drainage	7.2.5
	6.10.7	Lots on Thoroughfares	7.2.6
	6.10.8	Lots on Collector Streets	7.2.7
	6.10.9	Access	7.2.8
	6.10.10	Flag Lots	7.2.9
	6.10.11	Special Purpose Lots	7.2.10
	6.11	Water/Sewer Requirements & Connections	7.8
	6.11.1	Requirements	7.8
	6.12	HOA Requirements	7.3
	6.13	Street Design	7.5
	6.14	Off-Street Parking and Loading	7.10
	6.14.1	Minimum	7.10.1
	6.14.2	Parking Space Design Standards	7.10.2
	6.15	Outdoor Lighting	7.11
	6.15.1	Requirements	7.11.1
	6.15.2	Parking Lot Lighting	7.11.2
	6.15.3	Surfacing	7.10.3
	6.16	Outdoor Display and Storage	7.12
	6.17	Solid Waste, Dumpster, Recycling, Trash	7.13
	6.18	Open Space	7.6
	6.19	Performance Guarantee Requirements	Appendix D
	6.19.1	Guarantee Required Prior to Signing Final Plat	Appendix D
	6.19.2	Type Guarantee Required	Appendix D
	6.19.3	Release of Guarantee Requirements	Appendix D
	6.19.4	1.1.1 Required Improvements	Appendix D
	6.20	Development Agreements	Appendix D
	6.22.6	Certificate of Registration by Register of Deeds	Appendix D

Articles 7-11	Existing Articles	Topic	Proposed Articles
	Article 7	Landscaping	Article 8
	Article 8	Flood Damage Prevention	Article 9
	Article 9	Signs	Article 10
	Article 10	Nonconformities	Article 11
	Article 11	Enforcement and Penalties	Article 12

ARTICLE 1 GENERAL PROVISIONS

1.1 TITLE
1.2 AUTHORITY
1.3 JURISDICTION
1.4 PURPOSE
1.5 RELATIONSHIP TO ADOPTED PLANS
1.6 MATTERS REGULATED
1.7 EFFECTIVE DATE
1.8 RELATION TO OTHER CODES AND ORDINANCES
1.9 REPEAL OF CONFLICTING ORDINANCES
1.10 GENERAL RULE OF CONSTRUCTION
1.11 TRANSITIONAL PROVISIONS
1.12 SEPARABILITY
1.13 COMMENTARY

ARTICLE 2 DECISIONS MAKING AND ADMINISTRATIVE BODIES

2.1 GENERAL
2.2 BOARD OF COUNTY COMMISSIONERS
2.3 PLANNING BOARD
2.4 BOARD OF ADJUSTMENT
2.5 UNIFIED DEVELOPMENT ORDINANCE ADMINISTRATOR
2.6 RESERVED
2.7 TAX ASSESOR
2.8 RESERVED
2.9 TECHNICAL REVIEW COMMITTEE
2.10 OTHER DEPARTMENTS
2.11 SUMMARY OF REVIEW AUTHORITY

ARTICLE 3 REVIEW PROCEDURES

3.1 COMMON REVIEW PROCEDURES
3.2 PERMITS AND CERTIFICATIONS
3.3 REZONING
3.4 CONDITIONAL REZONING
3.5 MASTER DEVELOPMENT PLAN
3.6 MINOR SITE DEVELOPMENT PLAN
3.7 MAJOR SITE DEVELOPMENT PLAN
3.8 SUBDIVISIONS
3.9 MINOR SUBDIVISIONS
3.10 MAJOR SUBDIVISIONS
3.11 SKETCH DEVELOPMENT PLAN
3.12 SPECIAL USE PERMIT
3.13 DETERMINATION OF VESTED RIGHT
3.14 VARIANCE
3.15 ADMINISTRATIVE ADJUSTMENT
3.16 APPEAL OF ADMINISTRATIVE DECISION
3.17 WRITTEN INTERPRETATION
3.18 ORDINANCE TEXT AMENDMENT

ARTICLE 4 ZONING DISTRICTS

4.1 DIVISION OF THE COUNTY INTO ZONING DISTRICTS; OFFICIAL ZONING MAPS
4.2 RULES FOR INTERPRETING DISTRICT BOUNDARIES
4.3 CLASSIFICATION OF AREAS UNDER WATER AND OF AREAS NOT ELSEWHERE CLASSIFIED
4.4 ZONING DISTRICTS ESTABLISHED
4.5 GROUPING OF DISTRICTS

4.6 MEASUREMNT AND COMPUTATION
4.7 RESIDENTIAL ZONING DISTRICTS
4.8 MIXED USE DISTRICTS
4.9 COMMERCIAL DISTRICTS
4.10 INDUSTRIAL DISTRICTS
4.11 SPECIAL PURPOSE DISTRICTS
4.12 OVERLAY DISTRICTS
4.13 CONDITIONAL ZONING DISTRICTS
4.14 ZONING DISTRICT DIMENSIONAL REQUIREMENTS
4.15 HOUSING TYPES

ARTICLE 5 PERMITTED USES

5.1 USE INTERPRETATION
5.2 PERMITTED USE TABLE
5.3 USES WITH STANDARDS

ARTICLE 6 DEVELOPMENT REQUIREMENTS AND CONTENT

6.1 MASTER DEVELOPMENT PLAN CONTENTS
6.2 MINOR SITE DEVELOPMENT PLAN CONTENTS
6.3 MAJOR SITE DEVELOPMENT PLAN CONTENTS
6.4 PRELIMINARY PLAT CONTENTS
6.5 FINAL PLAT CONTENTS
6.6 FAMILY DIVISION
6.7 THREE LOT DIVISION - NCDOT ROAD
6.8 THREE LOT DIVISION – PRIVATE ROAD/ACCESS EASEMENT

ARTICLE 7 DESIGN STANDARDS

7.1 GENERAL
7.2 LOT DESIGN
7.3 HOME OWNERS ASSOCIATION REQUIREMENTS
7.4 ACCESS
7.5 STREET DESIGN
7.6 OPEN SPACE
7.7 WASTEWATER SYSTEM REQUIREMENTS
7.8 WATER/SEWER SYSTEM AND CONNECTION REQUIREMENTS
7.9 DRAINAGE FACILITIES AND UTILITY EASEMENTS
7.10 OFF-STREET PARKING AND LOADING/PARKING REQUIREMENTS
7.11 OUTDOOR LIGHTING
7.12 DISPLAY AND STORAGE
7.13 SOLID WASTE, DUMPSTER, RECYCLING AND TRASH HANDLING

ARTICLE 8 LANDSCAPING AND BUFFERING

7.1 GENERAL
7.2 REQUIRED BUFFERS
7.3 INTERNAL LANDSCAPING IN PARKING AREAS AND OTHER SITE AREAS, OTHER THAN SINGLE FAMILY

ARTICLE 9 FLOOD DAMAGE PREVENTION

8.1 PURPOSE AND OBJECTIVES
8.2 DEFINITIONS
8.3 GENERAL PROVISIONS
8.4 ADMINISTRATION
8.5 PROVISIONS FOR FLOOD HAZARD REDUCTION
8.6 LEGAL STATUS PROVISIONS

ARTICLE 10 SIGNS

9.1 INTENT
9.2 ADMINISTRATION, FILING PROCEDURE AND APPROVALS
9.3 GENERAL PROVISIONS
9.4 EXEMPTIONS
9.5 SIGNS NOT REQUIRING ZONING APPROVAL
9.6 SIGNS APPROVED IN RESIDENTIAL DISTRICTS AND RURAL AGRICULTURAL DISTRICTS
9.7 SIGNS APPROVED IN THE COMMERCIAL AND MIXED USE DISTRICTS AND NON-RESIDENTIAL USES IN THE RESIDENTIAL DISTRICTS
9.8 SIGNS APPROVED IN THE INDUSTRIAL DISTRICTS
9.9 SHOPPING CENTER SIGNS, MALLS, STRIP MALLS AND OFFICE, BUSINESS & INDUSTRIAL PARKS/BUILDINGS
9.10 OUTDOOR ADVERTISING SIGNS ALLOWED ONLY ALONG INTERSTATE 40
9.11 PROHIBITED SIGNS
9.12 ILLUMINATION
9.13 MAINTENANCE AND REMOVAL OF UNSAFE SIGNS

ARTICLE 11 NONCONFORMITIES

10.1 GENERAL
10.2 NONCONFORMING LOTS
10.3 NONCONFORMING USES OF LAND
10.4 NONCONFORMING STRUCTURES
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APPENDIX C WALACE MUNICIPAL AIRPORT - AIRPORT HEIGHT RESTRICTION MAP
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7C

2.11 SUMMARY OF REVIEW AUTHORITY

The following table summarizes review and approval authority under this Ordinance.

	Technical Review Committee	UDO Administrator	Zoning Board of Adjustment	Planning Board	Board of County Commissioners
Master Development Plan – PD					
Master Development Plan – PD	R	R		<D>	
Major Site Development Plan and/or Preliminary Plat	R	R/D		<D>(w)	
Final Plat		R			
Master Development Plan - Residential					
Master Development Plan	R	R		<D>	
Preliminary Plat	R	R/D		<D>(w)	
Final Plat		R D			
Master Development Plan – Non Residential					
Master Development Plan	R	R		<D>	
Major Site Development Plan	R	R D			
Subdivision					
Minor Subdivision – Preliminary Plat	R	R D			
Minor Subdivision – Final Plat	R	R D			
Major Subdivision (RA Districts) – Preliminary Plat	R	R D			
Major Subdivision (RA Districts) – Final Plat	R	R D			
Sketch Development Plan		R D			
Family Divisions/Three Lot Divisions		R D			
Non Residential					
Major Site Development Plan	R	R D			
Minor Site Development Plan	R	R D			
Miscellaneous					
Rezoning & Conditional Rezoning	R	R		<R>	<D>
Ordinance Text Amendment	R	R		<R>	<D>
Special Use Permits	R	R			<D>
Appeal of Zoning Vested Right		R D	<D>		
Variance			<D>		
Administrative Adjustment		D			
Appeal of Administrative Decision		R	D		
Written Interpretation		D			
Telecommunications Tower					<D>
Zoning Approval/Permits		D			

KEY:

R= Review or recommendation authority
D = Decision authority
R/D= Review and decision authority when waived by Planning Board
< > = Public Hearing required
(w) = Unless waived at the MDP Hearing

ARTICLE 3 REVIEW PROCEDURES

3.1 COMMON REVIEW PROCEDURES

3.1.1 Pre-Submittal Meeting with Staff

A. Before submitting an application for development approval, each applicant is encouraged to schedule a pre-submittal meeting with the Administrator to discuss the procedures, standards and regulations required for development approval in accordance with this Ordinance.

B. Except as defined in part C below, the pre-submittal meeting does not necessarily have to be a face-to-face meeting. Phone calls and e-mail exchanges may qualify as a pre-submittal meeting.

C. A face-to-face pre-submittal meeting with the Administrator shall be required for the following approvals:

1) Rezoning;
2) Conditional Rezoning;
3) Master Development Plan;
4) Preliminary Plat;
5) Special Use Permit;
6) Major Site Development Plan;

D. The applicant shall be required to schedule this pre-submittal meeting with the Administrator at least thirty (30) days prior to submission of an application.

3.1.2 Application Requirements

A. Content: Applications for planning project reviews shall contain all the information deemed necessary by the Administrator, Planning Board, or Board of County Commissioners. All applications shall be filed in the Planning Office no later than forty-five (45) days prior to the meeting of the Planning Board or Board of County Commissioners at which the application is to be considered.

B. Fees: Fees are established and approved by the Board of Commissioners. Before any permit shall be issued or application review initiated, a fee in an amount fixed by the Board of County Commissioners shall be paid.

C. Complete Applications: All applications must be sufficient for processing prior to review. The presumption shall be that all of the information required in the application forms is necessary to satisfy the requirements of this section; however, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the planning staff as to whether more or less information should be submitted. Once the application has been determined sufficient for processing, copies of the application shall be referred by the planning staff to the Technical Review Committee. Staff may require an applicant to present evidence of authority to submit the application and additional information as deemed necessary.

D. Application Deadline: Applications sufficient for processing shall be submitted to the Planning and Community Development Departments in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

3.2 PERMITS AND CERTIFICATIONS

3.2.1 Zoning Approval

A. Activities for which a Zoning Approval is required: A valid Zoning Approval shall be required for any application for a Building or Electrical Permit. No Building or Electrical Permit shall be issued for any activity in a zoned area until such Zoning Approval or a written determination by the Administrator that no approval is required, has been issued. Zoning approvals may be issued in the form of an individual permit or as a corresponding approval on a related form, such as a building permit. In all circumstances a Zoning Approval shall be required for the following activities:

1) To commence the excavation for or the construction of any building or other structures including accessory structures,
2) To commence the moving, exterior alteration, expansion or substantial repair (see definition of substantial repair) of any structure including accessory structures,
3) To initiate a new use or change the use on any land, lot, parcel or property,
4) To initiate a new use or change the use for any building including accessory structures.

The Administrator shall not issue the Zoning Approval for such activities until a determination has been made that such activities, work or use and the plans and specifications required herein are in compliance with the provisions of this Ordinance. A Zoning Approval shall be required for these activities whether or not a building or related permit is required.

B. Application, Expiration, and Revocation of Zoning Approvals

1) Application Requirements: Application for a Zoning Approval shall be made in writing to the Administrator on forms provided for that purpose and a Development Plan shall be submitted as described herein.
2) Expiration: Zoning Approvals shall expire and be void after twelve (12) months from date of issue unless substantial progress on the project has been made by that time as determined by the Administrator.
3) Revocation: Zoning Approvals may be revoked by the Administrator when the permit is issued based on inaccurate or incomplete information submitted by the applicant. When a Zoning Approval is revoked the Administrator shall provide written notice to the applicant explaining the reason for such revocation. The notice shall list the reasons upon which the revocation is based and shall be served to the applicant and receipt shall be acknowledged.

C. Development Plan to be Submitted and Approved: It shall be unlawful for the Administrator to approve any plans or issue a Zoning Approval for any purpose regulated by this Ordinance until they have inspected such plans in detail and found them in conformity with this Ordinance, other Pender County Ordinances and applicable State and Federal laws. To this end, the Administrator shall require that every application for a Zoning Approval be accompanied by a plan or plat drawn to scale and ~~showing the following~~ in sufficient detail to enable the Administrator to ascertain whether the proposed activity is in conformance with this Ordinance. Applications determined by the Administrator that will not include additional improvements, such as parking and/or landscaping, may not be required to provide a site plan for Zoning Approval.

1) ~~The actual shape, location, and dimensions and area of the lot or building site.~~
2) ~~The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.~~
3) ~~The existing and intended use of all such buildings or other structures.~~
4) ~~Elevation sketch when compliance of the height of the structure is in question.~~
5) ~~Location of public or private utilities, including water, sewer and electrical.~~
6) ~~For non-residential uses, all required buffers and landscaping.~~
7) ~~For non-residential uses, required parking spaces and access.~~
8) ~~All details needed to show compliance with NC Coastal Stormwater Regulations (Session Law 2008-211, SB 1967).~~
9) ~~Line showing the boundary of the "buildable area" (as defined in this ordinance).~~
10) ~~A copy of a recorded deed or recorded plat of the property may be necessary.~~
11) ~~When a lot or a portion thereof is located in a FEMA designated Special Flood Hazard Area for which elevations have been established, additional information will be required including a map of the lot or building site signed and sealed by a Licensed Surveyor showing an existing established elevation bench mark on the site within 50' of the proposed structure.~~
12) ~~Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.~~

D. Issuance of Zoning Approvals, Requirements: If the proposed activity as set forth in the application is in conformity with the provisions of ~~this Ordinance and other Pender County Ordinances~~ all adopted Land Use Plans and Unified Development Ordinance and applicable state laws, the Administrator shall issue a Zoning Approval. Issuance of a zoning approval shall, in no case, be construed as waiving any provision of this or any other Ordinance or regulation.

E. Denial of Zoning Approvals: A Zoning Approval Shall Be Denied Under The Following Circumstances:

1) When the activity for which the permit is requested is located on a property upon which conditions exist that violate the provisions of this Ordinance.
2) When the application is incomplete or inaccurate as required by the provisions of this Ordinance.
3) When the application, activities, work or use and the plans and specifications required herein are not in compliance with the provisions of this Ordinance

F. Denial of Zoning Approvals, Requirements for Notice: When a Zoning Approval is denied the Administrator shall:

1) Provide written notice to the applicant explaining the reason for such denial,
2) The notice shall list the sections of this Ordinance upon which the denial is based,

3) The notice shall be served via certified mail with return receipt to the applicant. ~~and receipt shall be acknowledged.~~

3.2.2 Setback Certification

A. Upon submittal of a building permit application or prior to approval of a site plan or preliminary subdivision plat, the Administrator shall confirm all required setbacks and make clear note of these requirements on the application, plat or plan documents, as applicable.

B. Foundation Survey Requirements: Foundation surveys will be required and must be submitted in its original form to verify that a new structure meets the set back requirements of this Ordinance prior to occupancy. A foundation survey is required when the foundation wall is completed. Foundation surveys shall be required for all principal structures and accessory structures greater than 600 square feet with the exceptions noted below. The foundation survey submission shall consist of a map prepared by a Professional Land Surveyor showing the structure, lot boundaries and distance from the structure to the lot boundaries, and be signed and sealed by the surveyor. A signed and sealed letter from a Professional Land Surveyor, identifying the property and structure and certifying that the structure meets or exceeds the setbacks for the zoning district in which it is located may be provided in lieu of a survey map.

C. Prohibition on Inspections: No inspections shall be provided by the Pender County Building Inspector on a structure after the "foundation inspection" unless the Foundation Survey is complete. The Inspector shall place a stop work order on any construction when the foundation verification is not submitted when required and shall not provide an occupancy permit or any authorization for power connection until the required foundation survey verification is submitted and approved by the Administrator or their designated representative.

D. Exceptions to Survey Requirements: A foundation survey will not be required in the following circumstances:

1) For a structure erected on a bona fide farming operation.
2) For individual mobile homes located in a mobile home park.
3) For structures when the approved site plan shows the setbacks to be double those required by this Ordinance and a building inspector upon visit to the site can observe and confirm that the structure has been located as shown on the site plan. The inspector shall verify his observation by providing a signed copy of the site plan or a permit for the structure to the Administrator. Other form of certification satisfactory to the Building Inspections Director and Administrator may be provided.
4) For structures when the conditions noted below are met and a building inspector upon visit to the site can observe and confirm that the structure has been located as shown on the site plan. The inspector shall verify his observation by providing a signed copy of the site plan or a permit for the structure to the Administrator. Other form of certification satisfactory to the Building Inspections Director and Administrator may be provided. The following conditions must be met for this exception to apply:
   a) Site plan approved by Administrator and Environmental Health shows front yard setbacks to be 20 feet above minimum required and side and rear yard setbacks to be 10 feet above minimum required and is available at site.
   b) A survey map of the site showing the property corners is available at the site.
   c) The permanent property corners are clearly marked and flagged.
   d) The owner or his representative is available at the site to provide measurements if necessary to confirm structure location.

3.2.3 Requirements for Certificates of Occupancy

The Director of Building Inspections shall not issue a final Certificate of Occupancy for a structure or activity until the Administrator has made a determination that the structure and site is in compliance with the requirements of this Ordinance.

3.3 REZONING

3.3.1 General Use Rezoning

A. Amendments to the Zoning Map, also called a Rezoning, shall be made in accordance with the provisions of this section and shall follow the review process as shown in Figure 1 at the end of Section 3.4.

B. The County Commissioners shall approve or deny amendments to the Zoning Map of Pender County, as may be required from time to time.

C. Rezoning must correspond with the boundary lines of existing platted lots or tracts. Where the boundaries of a rezoning request do not follow a boundary line or a split zoned property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this Ordinance. An illustration containing a metes and bounds description is required.

D. All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

E. Must show substantial compliance with the goals and policies of the Comprehensive Land Use Plan.

3.3.2 Request for Rezoning

A. A request for a rezoning may be initiated by the County Commissioners, the Board of Adjustment, the Planning Board, the Administrator, the property owner or their agent, or any other party with appropriate owner consent.

B. All applications and petitions for rezoning based on private property shall be accompanied with a nonrefundable fee based on an adopted fee schedule.

C. All applicants or approved designee petitioning for a rezoning is responsible for scheduling and attending a Pre-Submittal Meeting with Staff as described in Section 3.1.1.

D. All applications for a rezoning shall be submitted in accordance with Section 3.1.2.

E. The rezoning application must contain a description and/or statement of the present and proposed zoning regulation or district boundary, and the name(s) and address(es) of the owner(s) of the property involved as required by general statute.

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

3.3.3 Public Notice

A. When a change in the zoning classification of a parcel of property is requested, the applicant shall provide to the Administrator, a list of names and addresses, as obtained from the county tax listings and tax abstract, all adjacent property owners, including property owners directly across any road or road easement, and owners of the property under consideration for rezoning, in accordance with N.C.G.S. §153A-343.

B. The applicant shall also provide a set of business envelopes addressed to each person on the list and accompanied with the amount of postage required for first class postage for the Planning Board public hearing. For Board of Commissioners, another set of business envelopes addressed with first class postage or monetary equivalent is required.

C. The Administrator shall then mail notices of the public hearing to each person on the list and shall certify that fact to the Board of Commissioners. Such certification shall be deemed conclusive in the absence of fraud.

D. Public notice affecting more than 50 properties shall follow the guidelines set forth in N.C.G.S. §153A-343.

3.3.4 Public Hearing

A. The Planning Board shall hold a public hearing for all rezonings, at which the Board of Commissioners may sit concurrently with the Planning Board, if the Board of Commissioners so desire. If not held concurrently, a separate rezoning public hearing before the Board of Commissioners is required for each project after being heard by the Planning Board.

B. Notice of the public hearing shall be published in a newspaper of general circulation in the county at least once each week for two successive weeks prior to the hearing according to general statutes and by mailing notices to adjoining property owners in the envelope provided by the applicant, if required by general statute.

C. The Administrator shall post a sign on the subject property with visual information related to the request.

3.3.5 Action by Administrator

A. The Administrator shall prepare a staff report that reviews the rezoning request in light of any applicable plans and the general requirements of this Ordinance. The staff report shall consider the entire range of permitted uses in the requested classification regardless of any representations

made that the use will be limited. ~~unless a development plan is submitted that restricts the permitted range of uses to specific uses.~~

B. ~~The Technical Review Committee will review the rezoning request at the discretion of the Administrator.~~ The Administrator will forward the rezoning request to the Technical Review Committee for review. The TRC shall make recommendations concerning whether the plan meets the requirements and or plans of their particular state agency, county department or utility authority.

C. Following completion of the review by staff, the Administrator shall forward the completed request, staff recommendation, and any related materials to the Planning Board for a hearing and recommendation in accordance with the adopted meeting schedule.

D. Following Planning Board review and recommendation, the Administrator shall forward the completed rezoning request and any related materials, including the Planning Board recommendation, to the County Commissioners for hearing and final action.

3.3.6 Action by Planning Board

A. Before making any recommendation on a rezoning request, the Planning Board shall consider any recommendations from the Administrator and shall conduct a public hearing where interested parties may be heard.

B. The Planning Board shall make a recommendation based on the Approval Criteria listed in Section 3.3.8.

C. Following Planning Board review and recommendation, the completed request, Planning Board recommendation, staff recommendation and any related materials shall be forwarded to the County Commissioners.

D. If the Planning Board fails to make a recommendation within 75 days following the date of the first hearing on the request, the County Commissioners may process the request without a recommendation.

3.3.7 Action by County Commissioners

A. Before making any decision on a rezoning request, the County Commissioners shall consider any recommendations from the Planning Board and Administrator and shall conduct a public hearing where interested parties may be heard.

B. The County Commissioners shall take action on a rezoning request based on the approval criteria.

C. The County Commissioners may approve the rezoning, deny the rezoning, or send the rezoning back to the Administrator for additional consideration.

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.

3.3.9 Withdrawal of Zoning Application

A. An applicant may withdraw a rezoning application at any time, by filing a statement of withdrawal with the Administrator. Any fees paid up to that point are nonrefundable.

B. The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.

3.3.10 Resubmission of Application

A. Upon final action by the County Commissioners to deny or approve an application for the rezoning of a piece of property, the Planning Board shall not review any applications for changes affecting the

same property or any portion thereof until the expiration of six (6) months from the date of such previous action except as provided as follows:

B. The County Commissioners may allow re-submission of such petition within a six (6) month period, if the County Commissioners, by one hundred (100) percent affirmative vote of its total membership may waive this restriction. The County Commissioners shall consider the following in determining a resubmission within this time period:

1) There has been a significant change in the zoning district classification of an adjoining piece of property.
2) The County has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed.
3) Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification.
4) There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the six month restriction on a new position; this, however, shall not include a change in the ownership of the subject property.

3.3.11 Period of Validity

An approved rezoning shall run with the property and shall be valid until the Official Zoning Map is subsequently amended.

3.4 CONDITIONAL REZONING

3.4.1 Intent

A. Conditional zoning districts hereby included are to allow for the consideration of certain uses that are permitted uses in the underlying zoning district but due to their nature may not be appropriate for a particular location.

B. A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses on small and large scale projects.

C. Although, it is not intended to be used for speculative purposes, a conditional zoning district applicant may include as part of the application, a list of uses which will not be developed on the property.

D. All uses listed as part of any application must be in the same format and description as listed in the Table of Permitted Uses.

E. The following zoning district categories are approved to be assigned conditional zoning districts: PD, RP, RM, GB, OI, IT, IG (Reference Article 4 for Zoning District Descriptions).

3.4.2 Application

A. Except as provided herein, all applications to establish a conditional zoning district must follow the regulations prescribed in this section in addition to the standard rezoning process as described in Section 3.3 of this Ordinance.

B. Contents of Application

1) All applications which specify an intended use must include a generalized site development plan drawn to a suitable scale, supporting information and text which specifies the use or uses intended for the property and any development standards to be approved concurrently with the rezoning application.
2) The generalized site development plan shall include the following items:
   a) A vicinity map drawn to a suitable scale which illustrates adjacent or nearby roadways, railroads, waterways and public facilities.
   b) A (metes and bounds) boundary of the parcel or portion of the parcel to be rezoned and developed.
   c) All existing easements, reservations and rights of way.
   d) Delineation of all Areas of Environmental Concern including but not limited to federal jurisdictional wetlands.
   e) For residential uses, the number of units, heights and a generalized location. For non-residential uses, the height, approximate footprint and location of all structures.
   f) If a known use is proposed: Traffic impact report, parking and circulation plans illustrating dimensions, intersections and typical cross sections.
   g) All proposed setbacks, buffers, screening and landscaping.

h) Phasing.
i) Signage.
j) Outdoor lighting.
k) Current zoning district designation and current land use status.
l) Other information deemed necessary by the Administrator, Planning Board, or Board of Commissioners, including but not limited to a Traffic Impact Analysis or other report from a subject matter expert.

3.4.3 Public Input Meeting

A. Prior to scheduling a public hearing on the rezoning application, the applicant must conduct one public input meeting and file a report of the results with the Administrator.
B. The report for the public hearing will include a summary of the public input meeting.
C. The applicant shall mail a notice for the public input meeting to adjoining property owners not less than ten (10) days prior to the scheduled meeting.
D. The notice shall include the time, date and location of the meeting as well as a description of the proposal.
E. The applicant's report of the meeting shall include:
   1) A copy of the letter announcing the meeting.
   2) A list of adjoining property owners contacted.
   3) An attendance roster.
   4) A summary of the issues discussed.
   5) The results of the meeting including changes to the project's proposal, if any.

3.4.4 Review

When evaluating an application for the creation of a conditional zoning district, the Planning Board and Board of Commissioners shall consider the following:

A. The application's consistency to the general policies and objectives all ~~of the~~ adopted Land Use Plans and Unified Development Ordinance.
B. The potential impacts and/or benefits on the surrounding area, adjoining properties.
C. The report of results from the public input meeting.

3.4.5 Conditions to Approval of Petition

A. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend, and the Board of Commissioners' request that the applicant add reasonable and appropriate conditions to the approval of the petition.
B. Any such conditions should relate to the relationship of the proposed use to the impact on County services and capital plans adopted, surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the participants in the public input meeting, staff, Planning Board and County Commission find appropriate or the petitioner may propose. Such conditions to approval of the petition may include right-of-way dedication to the state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
C. The petitioner shall consider and respond to any such conditions after the Planning Board meeting and within three (3) days prior to the staff report for the County Commission being published. If the applicant does not agree with the Planning Board or staff's recommendations of additional conditions, the County Commission shall have the authority to accept any or all of the conditions forwarded from the review process.
D. If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.

3.4.6 Effect of Approval

A. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined Ordinance requirements applicable to the district's classification, the approved general development plan for the district, and any additional approved rules, regulations,

and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

B. If a petition is approved, only those uses and structures indicated in the approved petition and site plan or land use area indicated on the general development plan shall be allowed on the subject property.

C. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example "RP-CD").

D. The general development plan does not substitute for an approved master plan as required in the applicable zoning district.

E. No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and site plan for the district.

F. Any violation of the approved site plan or any rules, regulations and conditions for the district shall be treated the same as any other violation of this Chapter and shall be subject to the same remedies and penalties as any such violation.

3.4.7 Alterations to Approval

A. Except as provided in subsection 2 below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the zoning maps and shall be processed in accordance with the procedures in this Article.

1) The Administrator shall have the delegated authority to approve an administrative amendment to an approved site plan. The Administrator shall have no authority to amend the conditions of approval of a petition. The standard for approving or denying such a requested change shall be that the change does not significantly alter the approved site plan and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.

2) The Administrator has the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and County Commission consideration is deemed appropriate under the circumstances. If the Administrator declines to exercise this authority, then the applicant can amend the conditions of the original application by filing a new rezoning petition for a public hearing with Planning Board review and County Commission decision.

3) Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Administrator.

3.4.8 Review of Approval of a Conditional Zoning District

A. It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval.

B. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the County Commission a report which may recommend that the property be rezoned to its previous zoning classification or to another district.

Rezoning

Pre-Submittal Meeting w/ Staff

Submit Completed Application and materials to Planning Department

General Use Rezoning

Conditional Rezoning

Community Meeting/ Planning Staff
*R

Technical Review Committee
*R

Planning Staff
*R

Technical Review Committee
*R

Planning Staff
*R

Planning Board
*R
**PH

Applicant may re-submit after a 6 month waiting period
**Unless Waived by the BOCC*

Board of Commissioners
**PH
***D

Approval

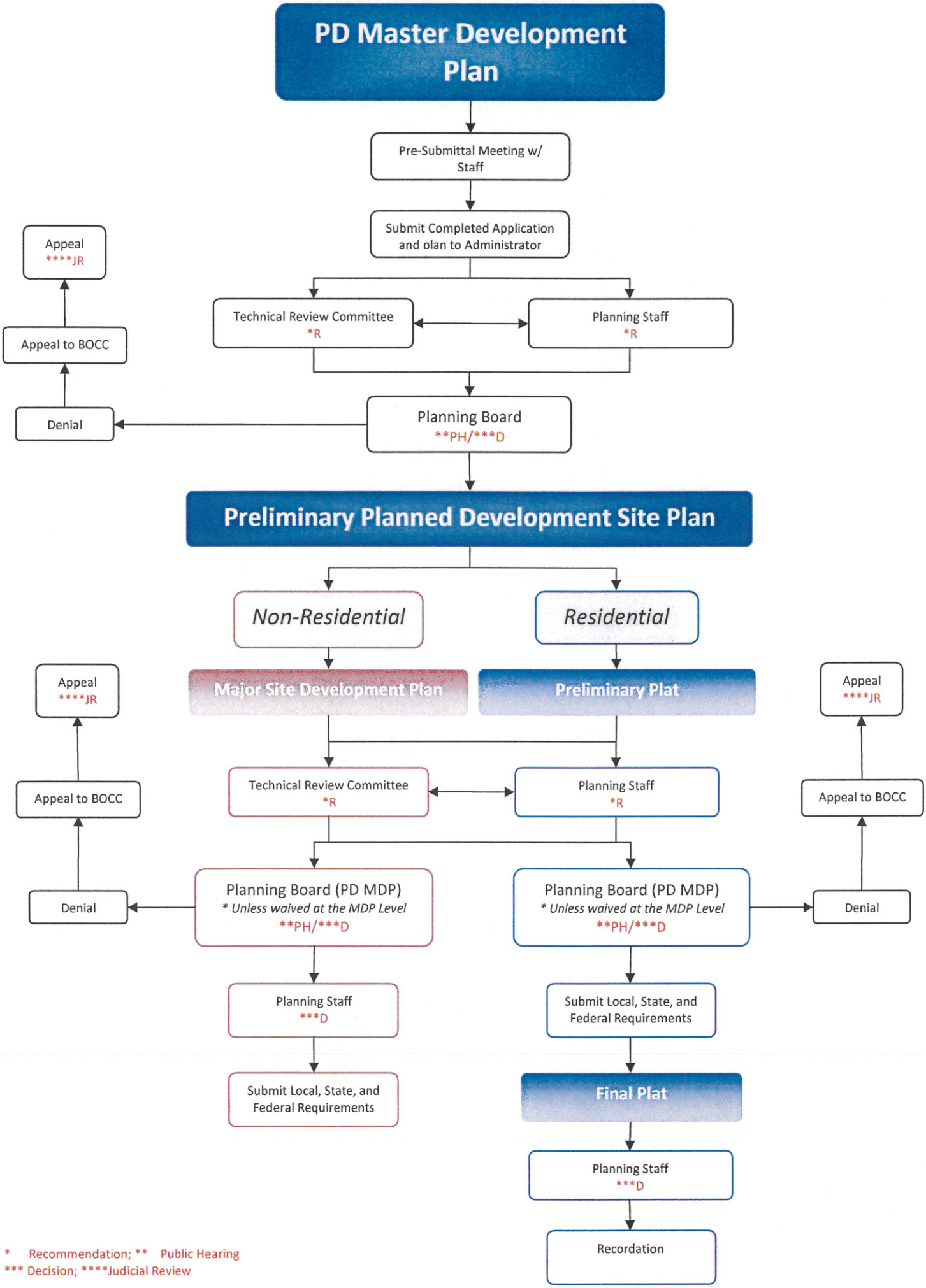
Denial

Appeal
****JR

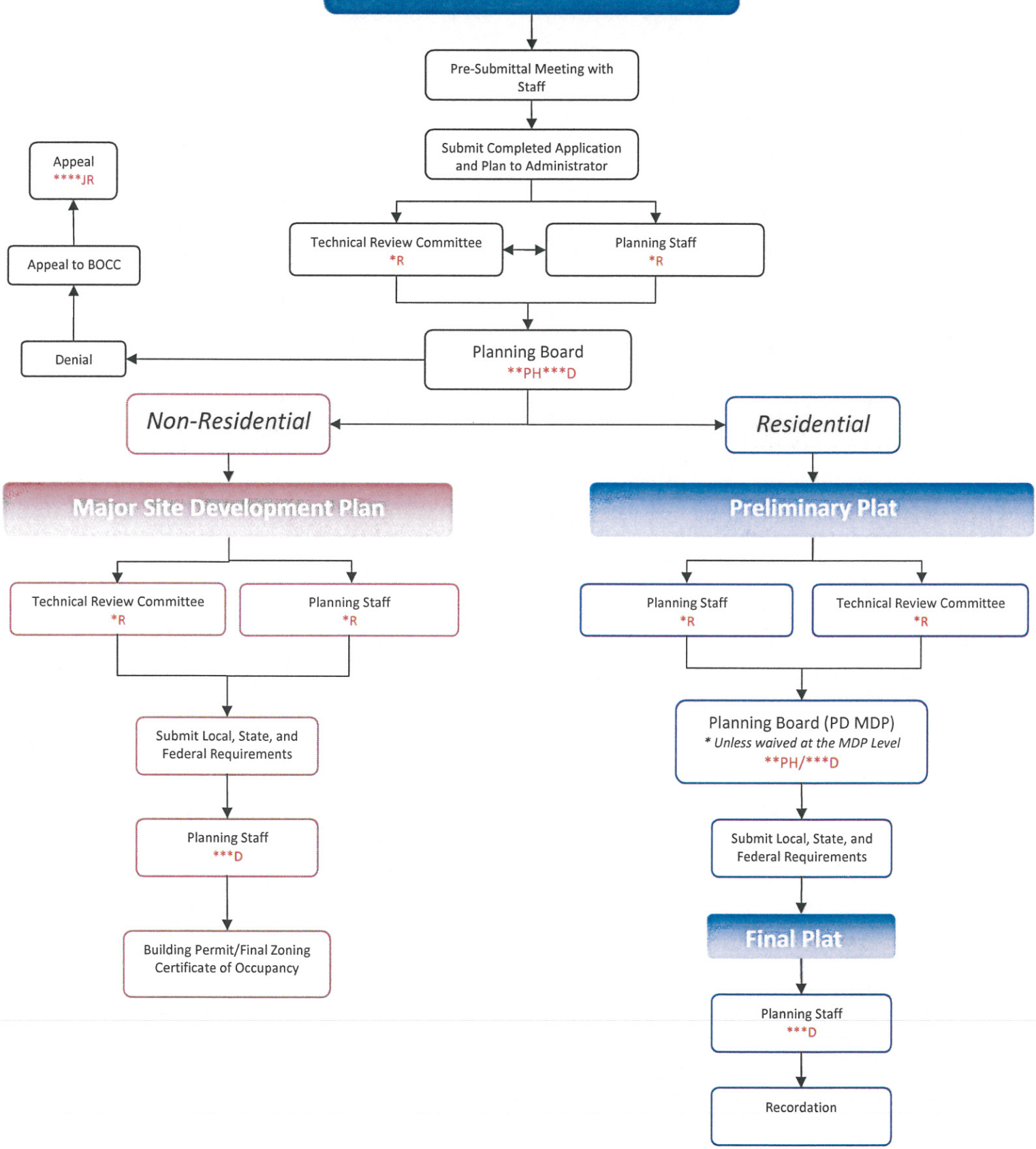
Individual Site Dev. Plan as Appropriate

Master Development Plan

* Recommendation; ** Public Hearing
*** Decision; ****Judicial Review


PD Master Development Plan
Pre-Submittal Meeting w/ Staff
Submit Completed Application and plan to Administrator
Technical Review Committee
*R
Planning Staff
*R
Planning Board
PH/*D
Denial
Appeal to BOCC
Appeal
****JR
Preliminary Planned Development Site Plan
Non-Residential
Residential
Major Site Development Plan
Preliminary Plat
Technical Review Committee
*R
Planning Staff
*R
Appeal
****JR
Appeal to BOCC
Denial
Planning Board (PD MDP)
* Unless waived at the MDP Level
PH/*D
Planning Board (PD MDP)
* Unless waived at the MDP Level
PH/*D
Appeal
****JR
Appeal to BOCC
Denial
Planning Staff
***D
Submit Local, State, and Federal Requirements
Submit Local, State, and Federal Requirements
Final Plat
Planning Staff
***D
Recordation
* Recommendation; ** Public Hearing
*** Decision; ****Judicial Review

Master Development Plan



* Recommendation; ** Public Hearing
*** Decision; ****Judicial Review

3.5 MASTER DEVELOPMENT PLAN

3.5.1 Intent

The purpose of the Master Development Plan (MDP) is to promote orderly and planned development of property within Pender County. It is the purpose of the MDP to ensure that such development occurs in a manner that suits the characteristics of the land, is harmonious with adjoining property, is in substantial compliance with the goals and policies of the adopted Land Use Plans, Unified Development Ordinance, and is in the best interest of the general public. The MDP shall be used to illustrate the characteristics of the property proposed for development and of surrounding properties. All proposed Master Development Plans must follow the review process illustrated in Figure 2 and 3 at the end of Section 3.4.

3.5.2 ~~When Required~~ Applicability

A Master Development Plan (MDP) shall be submitted to the Administrator for Planning Board approval prior to any subdivision or development of property in any of the following zoning district:

ZONING DISTRICTS SUBJECT TO MDP	
Symbol	Name
Residential Districts	
RP	Residential Performance
RM	Residential Mixed
MH	Manufactured Home
Commercial Districts	
GB	General Business
OI	Office Institutional
Industrial Districts	
IT	Industrial Transitional
IG	Industrial General
Mixed Use Districts	
PD	Planned Development

A. The MDP shall at least include all contiguous land under single or common ownership in the above zoning districts.

B. A MDP may be submitted with an application for a conditional rezoning, but shall not be considered binding until approval of a final MDP.

C. Waivers to MDP – Residential Districts:
The Administrator may waive the requirements of a MDP in the Residential Districts if the proposed development contains all of the following criteria:
1) Contains 10 or less traditional detached single-family dwelling units;
2) Is not an integral portion of a property proposed or planned for future development or subdivision;
3) Is planned to be developed in a manner that is harmonious with surrounding properties and land uses; and
4) Does not substantially affect the purpose and intent of its zoning district and the intent of this article.

D. Waivers to MDP – Commercial & Industrial Districts:
The Administrator may waive the requirement of a MDP in the Commercial and Industrial Districts if the proposed development contains all of the following criteria:
1) If the proposed subdivision or development is less than 5 acres in size;
2) Includes no new streets, roads or rights-of-way, does not further extend any existing or dedicated street, road or rights-of-way and does not significantly change the layout of any existing or dedicated street, road or rights-of-way;
3) Is not an integral portion of a property proposed or planned for future development or subdivision;
4) That such development is limited to one individual parcel and one single use in accordance with Article 5.2.

3.5.3 Pre Application Conference

A. Prior to submission of a Master Development Plan for approval, the applicant shall request a pre-application review conference with the Administrator.

1) The purpose of the pre-application conference shall be to discuss the proposal in relation to the requirements of the Land Use Plan and Unified Development Ordinance and to obtain advice on the preparation of the Master Development Plan.

2) At the pre-application conference, the applicant shall provide a land use plan describing the following:

a) The general location of the site.

b) The general location of proposed roads.

c) The general location of proposed uses, environmental areas, housing types or open space.

d) The uses on adjoining properties.

e) Utility requirements.

3.5.4 ~~Preliminary Master Development Plan~~ Review

A. Applicants shall submit the MDP to the Administrator, together with completed application materials.

B. Application form must be completed and fee paid at the time of submission.

C. The Master Development Plan must meet all the requirements prescribe in Section 6.1, Master Development Plan Contents.

D. The Administrator will forward the MDP to the Technical Review Committee for review. The TRC shall make recommendations concerning whether the plan meets the requirements and or plans of their particular state agency, county department or utility authority.

E. When the submission is complete, the Administrator shall submit the plans, application materials and comments to the Planning Board for its consideration.

1) The Planning Board shall act on the MDP within 90 days of the date of the presentation of the plan to the Board. The Planning Board shall approve the plan, approve it with required changes or deny the plan. If the Planning Board fails to act within 90 days, the plan shall be deemed approved. The applicant may request additional time if he/she deems it necessary.

2) If the MDP is denied by the Planning Board, the applicant may choose to withdraw the application and resubmit it with changes as a new plan, or appeal the Planning Board's decision to ~~the Board of County Commissioners~~ Zoning Board of Adjustment.

3) Any decision rendered by the Planning Board is appealable to the ~~Board of County Commissioners~~ Zoning Board of Adjustment within thirty (30) days of the decision.

Original 3.5.5, Preliminary Master Development Plan Contents moved to Section 6.1

3.5.5 Final Master Development Plan

A. The final MDP shall conform to the requirements of this article.

B. Descriptions of changes made since approval of the preliminary MDP or as required with approval of the preliminary MDP shall be provided.

C. An approval block and signature lines for the Administrator shall be provided.

D. Applicants shall submit the final MDP to the ~~Department of Planning~~ Administrator. Final approval of the final MDP shall be given by the Administrator.

E. The Administrator shall approve the final MDP if a preliminary MDP was approved by the Planning Board and if all required changes have been made and all requirements of the County Code have been met, within 60 days of its submission. Failure of the Administrator to act in 60 days, without proper cause, shall be deemed approved.

3.5.6 Changes to Approved Plans

A. Changes to an approved MDP shall occur only after approval by the Planning Board using the procedures required for the approval of a new plan.

B. The Administrator may approve minor changes without following the full procedures, if such approval does not violate the intent of this chapter and section.

C. Such minor changes shall not include increases in the density or intensity of development, changes to entrance or street layout, changes to stormwater layout or other major design changes.

D. Modifications to approved Planned Developments shall be submitted to the Administrator and shall proceed in the same manner as the original PD Approval Process.

7E

E. Changes requiring modification include reduction in buffer widths or standards, increases in density, change in access points or circulation plans, transfer of permitted uses contained in the plan and/or changes to the overall concept of the plan.

Section 3.6, Preliminary Plat/Construction Drawings or Preliminary Plan added into new Section 3.9 and Section 3.10

Section 3.6.2, Preliminary Plan contents moved to Section 6.4

3.6 MINOR SITE DEVELOPMENT PLANS

3.6.1 Intent

A. The intent of the minor site development plan is to enable a non-residential project to be illustrated at sufficient scale with less design and engineering efforts than a major site development plan. This type of plan is suitable for: small building additions, new accessory buildings added to an existing site, permanent or seasonal, or small scale vendors added to existing business sites.

3.6.2 Activities Requiring Minor Site Development Plans

A. Any ~~non-residential~~ project including building additions of less than a 10% increase to the floor area of the existing structure or;

B. Any new structure(s) up to 2,500 square feet in area.

C. Any new structure that will not increase the impervious surface area to produce additional runoff creating the need for additional stormwater management practices or facilities.

D. No subdivision of new parcels are proposed.

3.6.3 Review

A. Applicants shall submit two copies of the site plan to the Administrator for review, along with applicable fees and completed application materials. Final approval of the site plan shall be issued by the Administrator. ~~At least five copies of the site plan are required to be submitted to the Administrator for final approval.~~

B. The Minor Site Plan must meet all the requirements prescribed in Section 6.3, Contents for a Minor Site Development Plan.

C. The Administrator shall forward the site plan to the Technical Review Committee for review. The Committee shall make recommendations to the Administrator concerning whether the plan meets the requirements of the Pender County Code and other State or Federal regulations as appropriate within five (5) business days.

D. The Administrator shall determine and provide comments to the applicant whether the site plan is in conformance with a previously approved Master Development Plan or if an MDP is not required, the site plan is in conformance with applicable sections of this Ordinance.

E. For projects in the PD zoning district, the ~~Planning Board~~ Administrator may request that the site plan be presented to the Planning Board for its review.

a. The Planning Board may make recommendations to the Administrator concerning the site plan.

b. The Administrator shall incorporate such recommendations into the review of the site plan.

F. Approval of the site plan shall expire within two years of the approval date unless building permits have been obtained for construction.

G. The Administrator shall periodically inspect the site during construction to ensure that the site plan requirements are met.

H. ~~No certificate of occupancy~~ Final Zoning approval shall not be issued for any use or site requiring a site plan until all requirements shown on the approved site plan have been met and all improvements shown on the site plan have been provided. If structures and improvements have been provided sufficient to guarantee public health and safety but if all site plan improvements have not been completed, a certificate of occupancy shall only be issued if a bond with surety or other acceptable guarantees have been provided to insure that all approved improvements will be provided. Such guarantees shall be for a limited time period acceptable to the Administrator, during which time said improvement shall be completed.

Section 3.8.4, Contents moved to Section 6.2

Section 3.7, Sketch Development Plan moved to Section 3.11

3.7 MAJOR SITE DEVELOPMENT PLAN

~~Major Site Development Plans will be required to follow the MDP process outlined in Article 3.5 or if specifically waived in accordance with Article 3.5.E~~

3.7.1 Intent

A. The intent of the Major Site Development plan is to enable non-residential and other development types not requiring a preliminary plan to be illustrated at sufficient scale and with detailed design and engineering efforts by a licensed professional. This type of plan is suitable for all non-residential and multi-family developments.

3.7.2 Activities Requiring Major Site Development Plans

A. In order to ensure that the requirements of this Article have been met, a site plan shall be required to be submitted to the Administrator for the following uses:

1) Any non-residential, multi-family, or mixed uses in the RA, OI, GB, IT and GI zoning districts.
2) Any type of development greater than 2,501 square feet in area that does not qualify for a minor site development plan.
3) Multifamily (condominium/apartment) development ~~Residential apartment/condominiums~~ not requiring a preliminary plan.
4) Manufactured Home Parks.
5) Required recreational facilities or amenities.

B. ~~The Administrator may require a site plan to be submitted with an application for a special use permit.~~

C. No permit shall be issued for the construction of any building or improvement on the site of any of the above uses until the site plan is approved

3.7.3 Review

A. Applicants shall submit two copies of the site plan to the Administrator for review, along with applicable applications and completed materials. Final approval of the site plan shall be issued by the Administrator.

B. Major site development plans located in PD, Planned Development District must include a Master Development Plan as prescribed in Section 3.5, Master Development Plan.

C. Major Site Development Plans will be required to follow the MDP process outlined in Article 3.5 or if specifically waived in accordance with Article 3.5.E.

D. The site plan must meet all the requirements prescribed in Section 6.2, Contents for a Major Site Development Plan.

E. The Administrator shall forward the site plan to the Technical Review Committee for review. The Committee shall make recommendations to the Administrator concerning whether the plan meets the requirements of any Pender County codes or Ordinances and other State or Federal regulations as appropriate within ten (10) business days.

F. The Administrator shall determine and provide comments to the applicant whether the site plan is in conformance with a previously approved Master Development Plan or if an MDP is not required, the site plan is in conformance with applicable sections of this Ordinance.

G. For projects in the PD zoning district, the Planning Board may request that the site plan be presented to the Planning Board for its review and make recommendations to the Administrator concerning the site plan. The Administrator shall incorporate such recommendations into the review of the site plan.

H. Upon approval of the Master Development Plan by the Planning Board, applicant may proceed with the preparation of a Major Site Development Plan.

I. Approval of the site plan shall expire within two years of the approval date unless building permits have been obtained for construction.

J. The Administrator shall periodically inspect the site during construction to ensure that the site plan requirements are met.

K. ~~No certificate of occupancy~~ Final Zoning Approval shall not be issued for any use or site requiring a site plan until all requirements shown on the approved site plan have been met and all improvements shown on the site plan have been provided. If structures and improvements have been provided sufficient to guarantee public health and safety but if all site plan improvements have not been completed, a certificate of occupancy shall only be issued if a bond with surety or other acceptable guarantees have been provided to insure that all approved improvements will be provided. Such guarantees shall be for a limited time period acceptable to the Administrator, during which time said improvements shall be completed.

Section 3.9.3, Contents moved to Section 6.3
Section 3.8, Minor Site Development Plans moved to Section 3.6

3.8 SUBDIVISIONS (Original Section 6.1, General)

3.8.1 Applicability

A. Scope of Coverage & Previous Plat Approvals

1) This Ordinance shall not have any effect on any existing subdivision or lot of record that is recorded in the Pender County Register of Deeds prior to the effective date of this Ordinance.
2) Any subdivision that has received preliminary plat approval by the Pender County Planning Board, prior to the effective date of this Ordinance and such approval has not expired, may submit a final plat for approval under the provisions for subdivisions in effect at the time of approval of the preliminary plat. Such final plat must be submitted under the provisions of the previous Ordinances, otherwise the plat will be subject to the provisions of this Ordinance.

B. Recorded Plats Required For All Divisions of Parcels Less Than 10 Acres - All new parcels of land created after the effective date of this Ordinance, that are less than 10 acres in size shall have a plat prepared under the provisions of NCGS §47-30 and recorded in the Register of Deeds of Pender County. When such parcel is exempt from the provisions of subdivision regulations, the Professional Land Surveyor preparing the plat shall provide a certification on the plat as to which exemption under the definition of subdivision in this Ordinance the parcel is exempt.

C. Approval of Subdivision Plats by Administrator Required - All plats of new parcels of land created after the effective date of this Ordinance shall be approved by the Administrator and such approval shall be indicated by signature on the plat.

D. Prohibition on Issuance of New Parcel Identifiers - The Tax Supervisor of Pender County shall not issue a parcel identifier within the jurisdiction of this Ordinance for any new parcel created after the effective date of this Ordinance, unless the Administrator has signed the map or approved the instrument creating the parcel.

E. Subdivision classified as exempt under this Article - The following subdivisions of land, as defined in NC §153A-335 are considered to be exempt from the subdivision regulations of this Ordinance:

1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.
2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.
3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.
4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

Section 3.9, Major Site Development Plan moved to Section 3.7

3.9 MINOR SUBDIVISION

3.9.1 Intent

A. Proposed subdivisions of ten (10) lots or less, except family and three lot divisions are classified as a minor subdivision and shall follow the preliminary plat review process. Proposed minor subdivisions located in PD, Planned Development district must follow the Master Development Plan review process which requires Planning Board approval. **(New language defining a minor subdivision)**

3.9.2 Pre-application Conference (Existing language from Section 3.6.1, Pre-application Conference)

A. Applicants who are proposing a residential site development plan ~~**traditional subdivision plans, and Mixed Use (PD) Developments that have been waived from Planning Board review**~~ shall request a pre-application conference with the Administrator prior to submitting the documents for review.

1) The purpose of the pre-application conference shall be to discuss the proposal in relation to the requirements of ~~the~~ any adopted Land Use Plans and Unified Development Ordinance and to obtain advice on the preparation of the preliminary plat.

2) If applicable, the applicant shall provide a copy of the approved Master Development Plan for discussion at the pre-application conference.

3.9.3 Review (Existing language from Section 3.6.3, Review Procedure)

A. Application form must be completed and fee paid at the time of submission.

B. Minor subdivision plans must meet all the requirements prescribed in Section 6.7, Contents for Subdivision Preliminary Plat and Section 6.6, Contents for Subdivision Final Plat.

C. The Administrator will forward the Minor Subdivision application and site plan to the Technical Review Committee for review. The TRC shall make recommendations concerning whether the plan meets the requirements and/or plans of their particular state agency, county department or utility authority within five (5) business days.

D. For projects in the PD zoning district, the administrator may request that the site plan be presented to the Planning Board for its review.

1) The Planning Board may make recommendations to the Administrator concerning the site plan.

2) The Administrator shall incorporate such recommendations into the review of the site plan.

E. When required submission material is submitted, the Administrator shall review and provide comments or approval to the applicant within fifteen (15) working days.

F. The plat will be reviewed for compliance with this Ordinance.

G. Plat approval constitutes approval of the layout and authorizes the developer to proceed with construction of the subdivision and improvements in accord with the approved plat and any conditions attached to the approval.

H. If a plat is not approved, the reasons for disapproval must be specified and provided to the applicants in writing. Disapproval of a plat may be appealed to the Pender County Zoning Board of Adjustment.

3.9.4 Dedication and Improvements (Existing language from Section 3.6.4, Dedication and Improvements)

A. In the development of any approved property, the applicant shall be required to reserve any additional right-of-way necessary to the width required by this Ordinance and the County Transportation Plan and by the State as permitted by applicable state law.

B. The applicant shall bear the costs of the installation of all on-site improvements as required by this Ordinance, including provision for surface drainage, pavement, landscaping, and utilities.

3.9.5 Inspections of Required Improvements (Existing language from Section 3.6.5, Inspections of Required Improvements)

A. Inspections during the installation of site improvements shall be made by the entity responsible for such improvements as required to certify compliance with approved site plans.

B. No improvements shall be accepted for maintenance by the County unless and until the requirements regarding public improvements have been met.

3.9.6 Project Completion (Existing language from Section 3.6.6, Project Completion)

A. Upon certifying that all development conditions of approval, all county requirements, and all required payments have been received, the County shall then issue a ~~Certificate of Occupancy~~ final zoning approval for the site.

B. Upon certifying that all development conditions and construction requirements have been installed, the final plat will be signed by the ~~County Staff~~ Administrator for recordation at the Register of Deeds Office for Pender County. The subdivider shall file the approved final plat with the Register of Deeds of Pender County for recording within sixty (60) days after the date of approval. Otherwise, such approval shall be null and void.

1) Improvement Guarantees

The following requirements shall apply to all plans:

a) Prior to the approval of any application, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.

b) The County shall require a financial guarantee in the form or a bond, letter of credit, or escrow for guaranteeing required on-site and off-site improvements as stated in Appendix D, Type Guarantee Required.

3.9.7 Appeals (Existing language from Section 3.6.7. Appeals)

A. Denial by County staff or Planning Board of any preliminary plat ~~or construction drawing~~ can be appealed to the ~~Planning Board for consideration~~ Pender County Zoning Board of Adjustments. ~~The~~

~~Planning Board will review and make a recommendation to the County Commissioners.~~ Upon review by the ~~County Commissioners~~ Board of Adjustments, a final judicial review will be determined on the request for consideration.

Section 3.10, Special Use Permit moved to Section 3.12

3.10 MAJOR SUBDIVISION

3.10.1 Intent

Proposed subdivisions consisting of ten (10) lots or more are classified as Major Subdivisions and are required to follow the Master Development Plan review process found in Figure 2 and 3 at the end of Article 3.5. All major subdivisions shall include a preliminary and final plat. Upon approval of the Master Development Plan by the Planning Board, the applicant may proceed with the preparation of the preliminary plat.

3.10.2 Pre-application Conference (Existing language from Section 3.6, Preliminary Plat review/process)

A. Applicants proposing a major subdivision site plan ~~**traditional subdivision plan, and Mixed Use (PD) Developments that have been waived from Planning Board review**~~ shall request a pre-application conference with the Administrator prior to submitting the documents for review.

1) The purpose of the pre-application conference shall be to discuss the proposal in relation to the requirements of all adopted ~~the~~ Land Use Plans and Unified Development Ordinance and to obtain advice on the preparation of the preliminary plan.
2) If applicable, the applicant shall provide a copy of the approved Master Development Plan for discussion at the pre-application conference.

3.10.3 Review (Existing language from Section 3.6.3, Review Procedure)

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

B. When required submission material is submitted as noted above, it shall be placed on the next scheduled Planning Board agenda, if applicable.

C. The Administrator will forward the Major Subdivision application and site plan to the Technical Review Committee for review. The TRC shall make recommendations concerning whether the plan meets the requirements and or plans of their particular state agency, county department or utility authority

D. Major subdivision plans must meet all the requirements prescribed in Section 6.7, Contents for Subdivision Preliminary Plat and Section 6.6, Contents for Subdivision Final Plat.

E. The preliminary plat must be submitted in digital format to the Administrator within the time frame indicated above. The digital submission of the plat will be considered proprietary information. The digital layout will be made available to the Tax Supervisor for parcel update and the digital submission may be returned to the person submitting it.

F. The plat will be reviewed for compliance with this Ordinance.

G. Due to the subdivision of land for residential purposes a portion of land must be dedicated to open space by means of providing recreational area to the residents or payments in lieu of dedication to the County. Open space requirements may be referenced in Section 7.5, Open Space.

H. Planning Board will take action on the plat submission within 65 days after completed submission.

I. Planning Board Master Development Plan approval shall be valid for two years. If all conditions of preliminary plat are met and a phase of the final plat is recorded, the preliminary plat status shall remain valid perpetually for all remaining phases.

J. Preliminary plat approval constitutes approval of the layout and authorizes the developer to proceed with construction of the subdivision and improvements in accord with the approved plat, conditions attached to the approval, and submittal of required permits.

K. All conditions of preliminary plat approval must be completed and submitted within 24 months of the approval date.

L. If a preliminary plat is not approved, the reasons for disapproval must be specified and provided to the developer in writing. Disapproval of a preliminary plat may be appealed to the Pender County Board of Commissioners.

M. A preliminary plat will not be scheduled for review that is incomplete or does not have the required documents submitted with it.

3.10.4 Dedication and Improvements (Existing language from Section 3.6.4, Dedication and Improvements)

A. In the development of any approved property, the applicant shall be required to reserve any additional right-of-way necessary to the width required by this Ordinance and the County Transportation Plan and by the State as permitted by applicable state law.

B. The applicant shall bear the costs of the installation of all on-site improvements as required by this Ordinance, including provision for surface drainage, pavement, landscaping, and utilities.

3.10.5 Inspections of Required Improvements (Existing language from Section 3.6.5, Inspections of Required Improvements)

A. Inspections during the installation of site improvements shall be made by the entity responsible for such improvements as required to certify compliance with approved site plans.

B. No improvements shall be accepted for maintenance by the County unless and until the requirements regarding public improvements have been met.

3.10.6 Project Completion (Existing language from Section 3.6.6, Project Completion)

A. Upon certifying that all development conditions of approval, all county requirements, and all required payments have been received, the County shall then issue a final zoning approval ~~Certificate of Occupancy~~ for the site.

B. Upon certifying that all development conditions and construction requirements have been installed, the final plat will be signed by the County staff for recordation at the Register of Deeds Office for Pender County. The subdivider shall file the approved final plat with the Register of Deeds of Pender County for recording within sixty (60) days after the date of approval. Otherwise, such approval shall be null and void.

1) Improvement Guarantees

The following requirements shall apply to all plans:

a) Prior to the approval of any application, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.

b) The County shall require a financial guarantee in the form or a bond, letter of credit, or escrow for guaranteeing required on-site and off-site improvements.

3.10.7 Appeals (Existing language from Section 3.6.7. Appeals

A. Denial by County staff or Planning Board of any preliminary plat ~~or construction drawing~~ can be appealed to the ~~Planning Board for consideration~~ Pender County Zoning Board of Adjustments. ~~The Planning Board will review and make a recommendation to the County Commissioners.~~ Upon review by the ~~County Commissioners~~ Board of Adjustments, a final judicial review will be determined on the request for consideration.

Section 3.11, Determination of Vested Rights moved to Section 3.13

3.11 SKETCH DEVELOPMENT PLAN

3.11.1 Sketch plans shall be submitted for the application and approval of the following development types:

A. Individual residential development in all applicable zoning districts.

B. Accessory uses and structures as prescribed in Article 5.2 Table of Permitted Uses in all residential districts.

C. Contents of sketch development plans

1) Minimum scaled at 1"=60', boundary of the entire tract to be developed;
2) Setbacks determined by zoning district and housing type;
3) Driveway location;
4) Existing accessory structures;
5) Location of water/septic services or confirmation of hook up to public provided service;
6) Any restrictions/easements located on the property including utilities, access, etc.;
7) Areas of Environmental Concern (Flood Hazard Areas, wetlands, CAMA determinations, etc.)

Section 3.12, Variance moved to Section 3.14

3.12 SPECIAL USE PERMIT

3.12.1 Purpose

A. The development and execution of this Ordinance is based on the division of the county into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district where permitted, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a Special Use Permit as hereinafter provided.

3.12.2 Application and Fees

A. Applications for Special Use Permits, signed by the applicant, shall be approved or denied by the Board of Commissioners and shall follow the general requirements of Article 3.1.1 and 3.1.2.

B. Each application shall contain the following as stipulated by the County Commissioners and Administrator:

1) Structures. Location of all structures within fifty (50) feet of the property; location and depth, if known, of any existing utility lines in the property or along any adjacent road.
2) Other Requirements. Location of property boundaries, location of any easements for utility lines or passage which cross or occupy any portion of the property for proposed lines;
3) The applicant shall provide to the Administrator a list of names and addresses of all adjacent property owners along with one (1) set of #10 envelopes stamped and with typed addresses to each person on the list. These addressed envelopes and the list shall be submitted at least thirty (30) days prior to the public hearing. The Administrator shall then mail a copy of the legal notice to each adjacent property owner;
4) Name, address, tax map number, acreage, zoning, township and means of access to the site (road or recorded access easement);
5) Location and status of utilities: water, sewer, well, septic system, method of solid waste disposal, electrical service and natural gas if available;
6) Existing topography and all proposed changes. Include calculations to show total acreage of area to be graded or disturbed;
7) Existing and proposed streams, drainage ways, ponds, lagoons, wetlands, flood plains, berms, etc.
8) Existing and proposed structures and on-site improvements;
9) Existing and proposed fencing, vegetative screening and buffering;
10) Existing and proposed signs, lighting, landscaping, walks, parking and drives;
11) Detail any expected impact to the community, such as; traffic, noise, vibration, glare, odor, dust, etc. and the method being used to lessen these impacts.

3.12.3 Procedures for Reviewing Applications

A. The special uses, as specified in the various districts, may be established only after review and approval by the Board of Commissioners.

B. The Board of County Commissioners, acting in a quasi-judicial manner and setting, shall hear evidence from the applicant and any interested members of the public.

C. The Board of Commissioners shall hold a public hearing on the application for a Special Use Permit within sixty (60) days after the completed application is filed.

D. The Administrator shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.

E. All Special Use Permit applications must be presented to the Administrator for a determination of completeness.

F. An appeal from a completeness determination may be made to the Board of Adjustment within twenty (20) days of the determination.

G. The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit, the Board of Commissioners, with due regard to the nature and

state of all adjacent structures and uses in the district within same is located, shall make written findings that the following are fulfilled:

1) The use requested is listed among the special uses in the district for which application is made, or is similar in character to those listed in that district;
2) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property;
3) The proposed use shall not constitute a nuisance or hazard;
4) The requested use will be in conformity with the Pender County Land Use Plan and other official plans or policies adopted by the Board of County Commissioners;
5) Adequate utilities, access roads, drainage, sanitation or other necessary facilities have been or are being provided;
6) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public roads;
7) That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located; and
8) The proposed use shall not adversely affect surrounding uses and shall be placed on a lot of sufficient size to satisfy the space requirements of said use.

3.12.4 General Provisions Concerning Special Use Permits

A. Compliance With Other Codes - Granting of a Special Use Permit does not exempt the applicant from complying with all of the requirements of building codes and other Ordinances.

B. Revocation - In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Administrator may initiate a notice of violation for the provisions of this Ordinance and the conditions of the Special Use Permit not in compliance or the Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified. After a public hearing has been held, the Board of Commissioners may revoke the Special Use Permit upon finding any of the following:

1) That the approval was obtained by fraud.
2) That the use for which such approval was granted is not being executed.
3) That the use for which such approval was granted has ceased to exist or has been suspended for one year.
4) That the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval.
5) That the permit granted is in violation of an Ordinance or statute.
6) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

C. Expiration - Unless a request for additional time is granted or approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void if final Zoning Approval has not been issued for the project within 24 months after the Notice of Approval of the Special Use Permit has been served on the applicant. The Administrator may provide one extension of the expiration date by no more than 6 months, for complex projects requiring major state or federal permits, upon receipt of a written request for such extension by the applicant detailing the reasons for delay in completion of the requirements for the Zoning Approval.

D. Duration of Special Use - Any conditions imposed on a special use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Special Use Permit or subsequently changed or amended by the Board of Commissioners after application to the Board of Commissioners and a public hearing.

E. Conditions and Guarantees - Prior to the granting of any special use, the Board of Commissioners may stipulate such conditions and restrictions upon the establishment, location, or construction, maintenance, and operation of the special use as it deems necessary for the protection of the public and to secure compliance with the standards and requirements specified in this Ordinance. In all cases in which special uses are granted, the Board of Commissioners shall require such evidence and guarantees as it may deem necessary to assure that conditions stipulated in connection therewith are being and will be complied with.

1) Such conditions may include a time limitation.

2) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six (6) feet before the use requested is initiated".

3) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m."

F. Filing of Special Use - The Administrator shall file the approved or disapproved application forms with the decision of the Board of Commissioners.

G. Appeals from the Board of Commissioners - Appeals to the Superior Court may be taken by any person, firm, or corporation aggrieved, or by any officer, department, board of the county affected by any decision of the Board of Commissioners, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Commissioners is filed in the office of the Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board of Commissioners shall be delivered to the applicant by certified mail, return receipt requested.

H. Revisions - Major revisions to a Special Use Permit must be submitted to the Board of Commissioners. All legal notice and application fee requirements must be met for major revisions. Revisions that are considered minor revisions to an approved Special Use Permit may be reviewed and approved by the Administrator after basic submission requirements have been completed. All revisions approved by the Administrator must meet the original conditions of the permit as approved by the County Commissioners and current provisions of the Zoning Ordinance. The addition of an accessory structure less than 1000 sq. ft., addition of parking or other ancillary facilities or uses or the addition of similar product lines are examples of revisions that may be considered minor revisions.

Section 3.13, Administrative Adjustment moved to Section 3.15

3.13 DETERMINATION OF VESTED RIGHT

3.13.1 Establishment

A. With Site Specific Development Plan

1) In order for a zoning vested right to be established upon approval of a development plan, the applicant must indicate at the time of application, on a form to be provided by the County, that a zoning vested right is being sought. Site specific development plan means a plan which has been submitted to the County by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned development plan, a subdivision plat, a Master Development Plan or minor site plan, a conditional or special use permit, or any other land-use approval designation as may be utilized by a county. The plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. A variance shall not constitute a site specific development plan, and approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

2) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan established a zoning vested right under N.C.G.S. Section 153A-344.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

3.13.2 Application Requirements

A. Applications shall include, at a minimum, the following information in addition to the standard information required:

1) Information on the proposed uses of the property that the applicant wishes to vest;
2) The length of time for which vesting is requested;
3) A listing of those provisions of this Ordinance from which vesting is requested;
4) Identification of the portions of the development plan for which vesting is requested;
5) Indication of the impact on the ability of the project to proceed as originally approved if vesting is not granted; and,

6) The proposed timetable for the construction of the phases of the project for which vesting is requested.
7) If the owner considers prior expenditures and economic impact to be relevant to the governing body's determination, then any economic information regarding expenditures shall be accompanied by information regarding benefits or profits realized resulting from phases of the development previously built.
8) Landowners seeking zoning vested rights on plats or other plans that would not normally receive plan approval may apply for vested rights protection through submittal of an application which contains the identical information, fee, and plans required for a complete site plan application and an additional fee for a vested rights public hearing.

3.13.3 Action by the Administrator

The Administrator shall review each proposed vested rights certificate in light of the applicable approval criteria and shall distribute the application to the Technical Review Committee. Based on the results of those reviews, the Administrator shall provide a report to the Board of Adjustment for consideration during a regular meeting of the Board. This report shall include a discussion of all plans and policies that have been adopted by the County and are relevant to the application as well as the Technical Review Committee's recommendation. Once the application has been determined complete, the Administrator shall forward a copy of the application with all related materials to the Board of Adjustment for their decision.

3.13.4 Duration

A. A right which has been vested as provided for in this section shall remain vested for a period of three years. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the Board of Adjustment upon approval of the modification and or amendment.

B. The Board of Adjustment may approve an extension of a zoning vested right for a period of two years resulting in a total vesting period of five years.

3.13.5 Effect of Zoning Vested Rights

A. Following approval or approval of a development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

B. Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or with this Ordinance.

C. The establishment of a zoning vested right shall not preclude the application of new laws or regulations as is allowed under NCGS §153A-385.1. In addition, it shall not preclude overlay zoning that imposes additional requirements, but does not affect the allowable type or intensity of use, or Ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this section.

D. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

3.13.6 Termination

A vested right as provided in this section shall terminate when any one of the following circumstances applies:

A. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

B. With the written consent of the affected landowner;

C. Upon findings by the Board of Adjustment by Ordinance and after public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

D. Upon payment of compensation to the affected owner for all costs, expenses, and other losses incurred by the landowner together with interest;

E. Upon findings by the Board of Adjustment by Ordinance and after public hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material

misrepresentations which made a difference in the approval by the Board of Adjustment of the site specific development plan; or

F. Upon the enactment of a State or Federal law or regulation or local Ordinances enacted in compliance with such laws or regulations that preclude development as contemplated in the site specific development plan.

Section 3.14, Appeal of Administrative Decision moved to Section 3.16

3.14 VARIANCE

3.14.1 Applicability

A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.

B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.

C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.

D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.

E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.

F. The Board of Adjustment may grant variances in the following special circumstances, as indicated elsewhere in this Ordinance.

3.14.2 Board of Adjustment

The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements.

3.14.3 Pre-Application Conference

All applicants seeking a variance shall schedule a pre-application conference with the Administrator to discuss the procedures, standards, and regulations required for variance approval.

3.14.4 Application Requirements

An application for a variance shall be submitted in accordance with application requirements.

3.14.5 Notice and Public Hearings

Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage.

3.14.6 Burden of Proof

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;

1) That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Building Official before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;

2) That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance;
3) That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;
4) That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance;
5) That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and
6) That the variance will not result in the expansion of a nonconforming use.
7) In the case of expansions to nonconforming structures, the variance granted shall be the smallest that is reasonably necessary.

B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

3.14.8 Action by the Administrator

The Administrator shall provide the Board of Adjustment with a copy of the application and all relevant materials pertaining to the request prior to the public hearing.

3.14.9 Action by the Board of Adjustment

A. Each decision shall be accompanied by a finding of fact by the Board of Adjustment which specifies the reasons for the decision.
B. A decision of the Board of Adjustment to approve a variance or reverse an interpretation requires an affirmative vote by four-fifths of the members present and voting.
C. The Board of Adjustment may approve the request, deny the request, or continue the request. In approving the variance, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with neighboring properties and will not alter the character of the neighborhood.

3.14.10 Effect of Approval

The Administrator shall file the approved variance with the Pender County Register of Deeds. All variances that are granted shall run with the property or structure for which the variance is being sought and not with the owner of the property or structure.

Section 3.15, Written Interpretation moved to Section 3.17

3.15 ADMINISTRATIVE ADJUSTMENT

3.15.1 Applicability

The Administrator shall be authorized to approve minor specified deviations as specified in paragraph a. below where, owing to special conditions, strict enforcement of the provisions of this Ordinance would be physically impractical.

3.15.2 Action by Administrator

The Administrator shall have the authority to authorize the following administrative adjustments:

A. A reduction of up to ten percent of the required front, side or rear yard setback for any encroachments into required setback as of July 1, 2010;
B. Any request for deviation from the provisions of this Ordinance not listed above shall be reviewed by the Board of Adjustment as provided in the Section on Variances.

3.15.3 Administrative Adjustment Criteria

To approve an administrative adjustment, the Administrator shall make an affirmative finding that all of the following criteria are met:

A. That granting the administrative adjustment will not have an adverse impact on land use compatibility;

B. That the circumstances creating the need for the administrative adjustment are not the result of the property owner's own actions;

C. That granting the administrative adjustment will not materially and adversely affect adjoining land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations;

D. That granting the administrative adjustment shall be consistent with the purposes and intent of this Ordinance; and

E. That the strict enforcement of this Ordinance would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Ordinance.

3.15.4 Appeal

Final action on an administrative adjustment may be appealed to the Board of Adjustment in accordance with Section 3.14, Appeal of Administrative Decision.

Section 3.16, Ordinance Text Amendment moved to Section 3.18

3.16 APPEAL OF ADMINISTRATIVE DECISION

3.16.1 Applicability

As specified in N.C.G.S. 153A-345(b), an appeal by any person aggrieved by a final order, interpretation or decision of the Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

3.16.2 Application Requirements

A. An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Administrator and the Board of Adjustment within thirty days after the decision by the Administrator.

B. An application for appeal of an administrative decision shall be submitted in accordance application requirements, Article 3.1.2.

C. A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Administrator. The date and time of filing shall be entered on the notice.

3.16.3 Deadline for Submission of Application

An appeal of an administrative decision shall be filed with the Administrator and Board of Adjustment within thirty (30) days of receipt of the decision.

3.16.4 Notice and Public Hearings

The County shall hold all required public hearings and give notice in accordance with Article 3.14.5.

3.16.5 Action by Administrator

The Administrator shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3.16.6 Action by Board of Adjustment

A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

B. A motion to reverse, affirm, modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

C. If a motion to reverse or modify is not made, or fails to receive the affirmative vote of a majority of members present, the appeal shall be denied.

D. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

3.16.7 Effect of Appeal

A. An appeal shall stay all proceedings in furtherance of the action appealed, unless the administrative official from who the appeal is taken certifies to the Board of Adjustment that, because of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property or that

because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this Ordinance. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrative official.

B. An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this Ordinance are stayed.

3.16.8 Appeals from the Board of Adjustment

Appeals to the Superior Court may be taken by any person, firm or corporation aggrieved, or by any office, department, board, of the county affected by any decision of the Board of Adjustment, provided such appeals shall be taken within thirty (30) days after the decision of the Board of Adjustment is filed in the office of the Administrator, or after a written copy thereof is delivered to the applicant, whichever is later. The decision of the Board shall be delivered to the applicant by certified mail.

3.17 WRITTEN INTERPRETATION

3.17.1 Applicability

When uncertainty exists, the Administrator shall be authorized to make all interpretations concerning the provisions of this Ordinance.

3.17.2 Application Requirements

An application for a written interpretation shall be submitted in accordance with Article 3.1.2, Application Requirements.

3.17.3 Action by Administrator

A. The Administrator shall review and evaluate the request in light of the text of this Ordinance, the Zoning Map, the County Comprehensive Land Use Plan, the CAMA Land Use Plan, any adopted land use documents, and any other relevant information.

B. Following completion of any technical reviews by staff, the Administrator shall render an opinion.

C. The interpretation shall be provided to the applicant in writing.

3.17.4 Official Record

The Administrator shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

3.17.5 Appeal

Final action on a written interpretation may be appealed to the Board of Adjustment in accordance with Article 3.14, Appeal of Administrative Decision.

3.18 ORDINANCE TEXT AMENDMENT

3.18.1 Applicability

A. The County Commissioners shall consider amendments to the text of this Ordinance, as may be required from time to time.

B. Amendments to the text of this Ordinance shall be made in accordance with the provisions of this Article.

C. A request to amend the text of this Ordinance may be initiated by the County Commissioners, Board of Adjustment, Planning Board, Administrator, or a citizen of Pender County.

3.18.2 Administrator

A. The Administrator shall be responsible for review and recommendation regarding amendments to the text of this Ordinance.

B. When a text amendment is initiated, the Administrator, in consultation with the appropriate body, shall draft an Ordinance and present that Ordinance to the Planning Board so that a public hearing may be set.

C. The Administrator shall prepare a staff report that reviews the proposed text amendment request in light of any applicable plans and the general requirements of this Ordinance.

3.18.3 Action by the Planning Board

A. Before making any recommendation on a text amendment, the Planning Board shall consider any recommendations from the Administrator and shall conduct a public hearing where interested parties may be heard.

B. The Planning Board shall make a recommendation based on the approval criteria.

C. The Planning Board shall make its recommendation following the initial public hearing.

3.18.4 Action by County Commissioners

A. Before taking action on a text amendment, the County Commissioners shall consider the recommendations of the Planning Board and Administrator and shall conduct a public hearing.

B. The County Commissioners shall make a decision based on the approval criteria.

C. Following the public hearing, the County Commissioners may approve the text amendment, deny the amendment, or send the amendment back to the Planning Board or a committee of the County Commissioners for additional consideration.

3.18.5 Approval Criteria

A. 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.

B. 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.

3.18.6 Changed Application

If the applicant makes significant changes to the application for a text amendment after the Planning Board has made its recommendation, the Administrator may refer the modified request back to the Planning Board for an additional public hearing.

3.18.7 Expedited Hearing

A. The County Commissioners, in situations in which it determines certain standards have been met, may expedite the hearing process on a proposed amendment.

B. The County Commissioners may consider a written request requesting an expedited hearing process. The request shall identify and support the reasons for such expedited consideration.

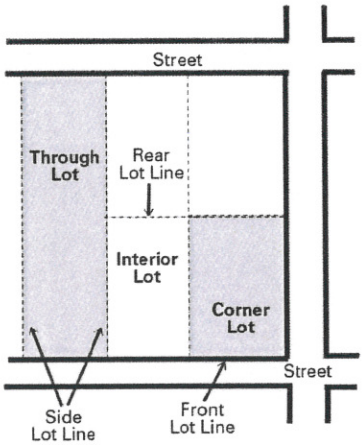
C. If the County Commissioners has set an expedited hearing concerning a request, in accordance with 3.16.7.E, a public hearing before the Planning Board shall be held at the first available hearing date or prior to the hearing before the County Commissioners.

D. The Planning Board may not continue a request that is subject to an expedited public hearing.

E. In order to grant the request, the County Commissioners shall find that at least one of the criteria below has been met:

1) Deadlines set by the local, State or Federal government for receipt of application for needed funding, designation or other regulations concerning the property make expedited consideration necessary;
2) The proposed text amendment results from an emergency beyond the control of the applicant, such as response to a disaster;
3) The proposed text amendment addresses an urgent matter of public health or safety; or
4) The proposed text amendment addresses issues identified in threatened, actual, or potential litigation against the jurisdiction that made expedited consideration necessary.

F. In no event may the County Commissioners hearing occur less than 30 days after the Planning Board has received the request for the expedited hearing.



4.6.3 Standard Minimum Separation between Buildings

A. The minimum required separation between buildings shall be in accordance with the latest edition of the International Building Code with North Carolina Amendments.

B. Attached buildings shall comply with all requirements for such structures including, but not limited, to, the provision of full firewalls between each independent structure.

C. Any structures separated by less than 5 feet are considered attached.

D. Measurement shall be taken from the building line.

4.6.4 Building Lines

Building lines are tangent to the exterior surface of a building or structure, parallel to front, side and rear lot lines. These are referred to as front, side and rear building lines, respectively.

4.6.5 Lot Type, Width, and Depth

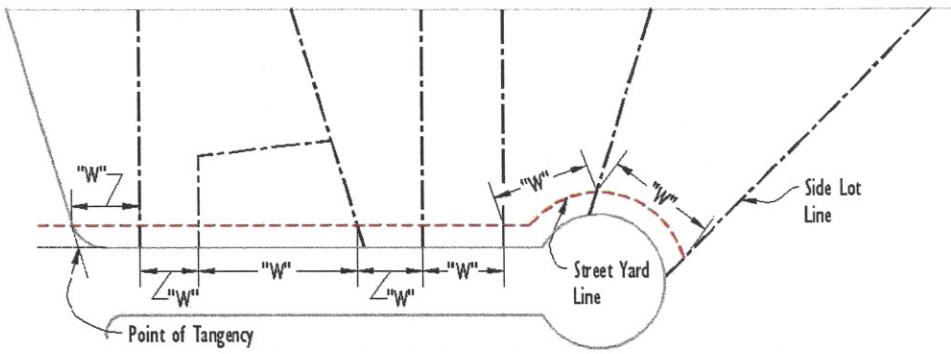
A. Lot Type – The various types of lots shall be classified as shown in the graphic at right:

B. Lot Line Equivalent - The following provisions shall apply in the determination of a lot line equivalent.

1) A front lot line equivalent is a straight line joining the foremost points of the side lot lines. In the case of rounded property corners at street intersections, the foremost point of a side lot line shall be assumed to be the point at which the side and the front lot line would have met without such rounding.
2) A front lot line is any lot line adjacent to a public right-of-way or ingress/egress easement.
3) A rear lot line is opposite the front lot line or in the case of a corner lot – the rear lot line is opposite the shortest front lot line.
4) A side lot lines are all lot lines not clarified as front or rear.

C. Lot Width

1) Lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the point of the front yard setback along a straight line parallel to the front of the property line or to the chord of the front property line.
2) Lot width (where they intersect with street line) may not be less than eighty (80) percent of the minimum required width for the district.
3) Cul-de-sacs must abide with minimum chord length requirements found in Section 4.14.1, Dimensional Requirements Table. **(New language clarifying lot width)**



Commentary: In the graphic above, the measurement for lot width is indicated by the "W"

D. Lot Depth

Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the front and the rear. On corner lots, the street side lot line is considered to extend to the point of tangency with the front lot line. On lots located on the interior of a cul-de-sac, the front most measurement point is assumed to be the midpoint of the curve between the side lot lines.

2) All undivided areas within the development (other than street rights-of-way, parking, and structures) shall be designated as open space as defined in Appendix A Definitions and Article 6. Such open space shall be offered to the public or encumbered for the perpetual benefit of the residents.
3) Private streets will be permitted in Performance Residential Developments; however, dedication of public streets and utility easements shall be required if such are indicated on the official plans as adopted by Pender County or any municipality if it is determined by the County Planning Board.
4) When a development proposal is submitted under this Article, it shall be processed as a Master Plan.
5) Projects proposing less than ~~34~~ 10 (ten) lots shall be submitted as one phase and must be contiguous when submitted for final plat.
6) A homeowners association shall be established and kept continuously active, for the maintenance of open and private spaces and stormwater runoff, along with any private water, sewer or roads, when warranted.
7) All requirements of Article 8 Flood Damage Prevention must be met.
8) Any land designated as usable open space shall be used in calculating the density for a proposed development.
9) Buffer strips shall be required and maintained by the Homeowner's Association.
10) All preliminary plans shall provide the approximate delineation of Corps of Engineers Section 404 and Section 10 Wetlands.

4.7.3 RM: Residential Mixed

The Residential Mixed (RM) District is designed to allow for a variety of conventional built and multifamily housing types which can be accommodated dependent on necessary infrastructure including but not limited to community or regional utilities and infrastructure. A variety of housing types as referenced within the Table of Permitted Uses shall be allowable, however only one housing type is required for development. The type of development should be compatible with surrounding land uses and consistent with the goals and policies of the Comprehensive Land Use Plan. The density development standards shall be calculated similar to the Planned Development (PD) District (4.8.1.D.1).

4.7.4 MH: Manufactured Housing Community

The MH Manufactured Housing Community District is designed to provide for planned communities for manufactured homes. This district is intended for the location of manufactured homes on land under common ownership or for the creation of lots for manufactured homes. Such planned developments are intended to be provided with appropriate roadways and amenities and suitable landscaping and transition areas to blend the Manufactured Housing Community with surrounding land uses.

A. Permitted uses:
1) Manufactured Homes
2) Manufactured Housing Community parks.
3) Accessory uses.
4) Home occupations.
5) Totally enclosed storage facilities for use by the residents of the Manufactured Housing Community Park or subdivision.
6) Business signs associated with schools, churches, public parks, playgrounds and recreational uses, fires stations and companies and rescue squads.
7) Residential subdivision identification signs.

B. Subdivision and development requirements.
1) Manufactured homes may be located in planned developments on parcels of land under common ownership or as Manufactured Housing Community. Such Manufactured Housing Communities shall meet the following requirements.

C. Dimensional requirements.
1) Density. The gross density of any Manufactured Housing Community or subdivision shall not exceed eight units per acre.
2) Spacing requirements. No Manufactured Housing Community shall be placed within 20 feet of another.
3) Lot requirements. Minimum lots of 4,000 square feet shall be established for each dwelling unit. The corners of such lots shall be clearly posted by permanent markers which shall be maintained.

		Zoning Districts									
Use Type	**Ref NAICS**	**RA**	**RP**	**RM**	**MH**	**PD**	**GB**	**OI**	**IT**	**GI**	**EC**
Sector 81: OTHER SERVICES, EXCEPT PUBLIC ADMINISTRATION											
Automotive Repair and Maintenance	8111	S					P		P	P	
Electronic and Precision Equipment Repair and Maintenance	8112	S					P	P	P	P	
Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	8113								P	P	
Personal and Household Goods Repair and Maintenance	8114	S				P	P	P	P	P	
Personal Care Services	8121	P	S			P	P	P	P		
Funeral Homes and Funeral Services	81221	S					P	P	P	P	
Cemeteries and Crematories Except: Private Cemetery	81222	S	S			S	S	S	S	S	
~~Private Cemetery (10 plots or less)~~	-	~~D~~	~~D~~	-	-	-	~~D~~	~~D~~	~~D~~	~~D~~	-
Coin Operated Laundries and Drycleaners	812310	P				P	P				
Dry-cleaning and Laundry Services	812320	S				P	P		P	P	
Linen & Uniform Supply	81233								P	P	
Other Personal Services	8129	S				P	P	P	P		
Pet Care Services	812910	D					D		D	D	
Religious Organizations	8131	P	S			P	P	P	P		
Grantmaking and Giving Services	8132					P	P	P	P		
Social Advocacy Organizations	8133					P	P	P	P		
Business, Professional, Labor, Political and Similar Organizations	8139					P	P	P	P		
Sector 92: PUBLIC ADMINISTRATION											
Public Administration	92	P	P	P	P	P	P	P	P	P	
MISCELLANEOUS USES											
Adult and Sexually Oriented Businesses									S	S	
Adult Retail									S	S	
Bona fide Farm Purposes		D	D	D	D	D	D	D	D	D	D
Child Care Center		P	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	
Private Cemetery less than 6,000 sq. ft.		D	D				D	D	D		
Private Cemetery 6,000 sq. ft. and larger		S	S				S	S	S		
Public Parks		P	P	P	P	P	P	P	P	P	
Salvage Operations		S								D	
Sweepstakes Center							S		S	S	
Swine Farming		SD									

Telecommunication Facilities		SD	SD			SD	SD	SD	SD	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	

2) Non-Residential Districts

a) Commercial storage and/or parking of licensed operable motor vehicles will be permitted as indicated in the Table of Permitted Uses.

b) Inoperative vehicles shall only be permitted to be parked or stored while undergoing repairs at a commercial garage or automobile service station or if stored in an approved salvage yard.

3) Manufactured Home, Recreational Vehicle & Trailer Parking and Storage

a) It shall be unlawful to park or otherwise store for any purpose whatsoever any mobile home or trailer within any zoning district except as follows:

i) At a safe and lawful location on a street, alley, highway, or other public place, provided that the trailer or mobile home shall not be parked overnight.

ii) Within an approved location in a mobile home park.

iii) On any other lot or plot provided that:

a. A storing permit for any mobile home to be parked or stored for longer than seven (7) days shall be obtained from the Administrator.

b. A mobile home shall not be parked and used other than in an approved mobile home park, or unless obtaining a temporary occupancy permit.

c. Trailers and recreational vehicles shall be ~~stored~~ parked in a driveway, garage, or carport, or in the rear or side yard of an established primary or principal lot or parcel for the purpose of storage only.

iv) No mobile home or camper shall be used for the purpose of storing materials.

v) Only operable recreational vehicles intended for personal use shall be parked or stored on any property used for residential purposes in any Zoning District.

vi) A permit to store a mobile home may be issued by the Administrator for a term not to exceed six (6) months. Such permit may be renewed for one six (6) month term, at the discretion of the Administrator.

F. Swimming Pools - All public, commercial, or private outdoor swimming, either above ground or below ground, and of either permanent or temporary construction shall meet the following requirements specified below:

3) That the setback for an above and below ground swimming pool and related mechanical equipment from any lot line shall equal the required setback for accessory structures in the district in which it is located.

4) In any case in which a pool is directly attached to a principal structure, all district requirements shall be met for principal structures.

5) Must meet all minimum requirements outlined in the North Carolina Building Code.

G. Retail Sales and Services - Retail sales and services are permitted as accessory uses when clearly incidental to the principal use.

3) With the exception of restaurants in conjunction with a motel such uses shall be conducted wholly within the principal building without access thereto other than from within the building and without exterior advertising or display. These activities shall be conducted solely for the convenience of the employees, patients, patrons, students, or visitors and not for the general retail public.

5.3.4 Agriculture, Forestry, Fishing and Hunting (Sector 11)

A. Swine Farms – As defined in this ordinance, must meet all regulations set forth by Article 67 of §106, Et. Seq., of the North Carolina General Statutes.

5.3.5 Mining, Quarrying, Oil and Gas Extraction (Sector 21)

Non-metallic Mineral Mining and Quarrying shall be subject to all criteria set forth in G.S. §74, North Carolina Mining Act.

5.3.3 Retail Trade (Sectors 44-45)

A. Automobile Service Station

1) Fuel pumps and other related accessory structures shall be located a minimum of 15 feet from any property line.

2) When an automobile service station adjoins a residential district, the underground storage tanks shall be located a minimum of 30 feet from the property line.

3) All underground storage tank facilities shall comply with the North Carolina Building Code and NFPA 30A.

ARTICLE 6 DEVELOPMENT REQUIREMENTS AND CONTENT

Section 6.1 moved to 3.8, Subdivisions

Existing language from Section 3.5.5, Preliminary Master Development Plan Contents

6.1 MASTER DEVELOPMENT PLAN CONTENTS

6.1.1 All Master Development Plans shall be prepared in accordance with the following specifications:

A. Site plans shall contain a conceptual plan, showing the location and functional relationship between all proposed housing types and land uses, including the following information:

1) The scale shall be one inch equals 100 feet or larger (the ratio of feet to inches shall be no more than one hundred feet to one inch) or at a scale acceptable to the ~~Director~~ Administrator. The scale shall be sufficient so that all features are clear.
2) No sheet shall be smaller than 24"x36" in size unless approved by the Administrator. If the MDP is prepared on more than one sheet, match lines shall clearly indicate where the sheets join.
3) North arrow, a scale of 1:100 or larger and a legend describing all symbols.
4) A boundary survey of the entire property related to true meridian and certified by a registered surveyor with all dimensions in feet and decimals of feet. A vicinity map at a suitable scale shall be provided showing the location of the project along with the location of all existing or approved public roads, streets or rights-of-way within 2,000 feet of the boundaries of the project.
5) The total area of the property shall be specified.
6) The topography shall be shown at 2 foot contour intervals.
7) The title of the proposed project; the date, month, year the plan was prepared or revised; the name of the applicant(s), owner(s) and contract owner(s); and the names of the individuals or firms preparing the plan shall be clearly specified.
8) A schedule of phases, with the approximate location of phase boundaries and the order in which the phases are to be developed, shall be provided.
9) The use of all adjoining properties by zoning, parcel identification number (PIN) and current property owner(s).

6.1.2 Master Development Plan Contents - Residential Districts

A. Site plans shall contain a conceptual plan, showing the location and functional relationship between all proposed housing types and land uses, including the following information:

1) A land use plan, showing the location, arrangement and approximate boundaries of all proposed land uses.
2) The location and approximate boundaries of proposed housing types conceptually shown in accord and with other non-residential uses dimensional requirements.
3) The proposed number of dwelling units of each type in each phase and in the total development accompanied by density calculation of the development.
4) The location and approximate boundaries of existing environmental features~~, including floodplains, lakes and ponds, wetlands, natural stormwater retention areas, steep slopes and woodlands~~ as defined.
5) The location of environmental protection land to be included in common open space.
6) ~~The approximate acreage of each type of environmental protection land, the amount and percentage of each type that is to be disturbed and the amount and percentage of each type to be placed in common open space.~~ The approximate acreage in common open space, each use, housing type and in roads, streets or right-of-ways for each phase and the total development.
7) ~~The amount, approximate boundaries and location of common open space, with the percentage of the total acreage of the site to be placed in common open space.~~ The approximate boundaries and location of common open space, with the percentage of the total acreage of the site to be placed in common open space.
8) The location and general configuration of recreational facilities, with a general statement of the types of recreational facilities to be provided if applicable.

7H

9) The location and extent of proposed buffers, with statements, profiles, cross sections or examples clearly specifying the screening to be provided if applicable.
10) The proposed location, arrangement, and right-of-way widths of roads and streets, including roads and streets providing access to adjoining parcels.
11) The location and arrangement of street entrances, driveways and parking areas.
12) The use of adjoining parcels and the location of adjoining streets and utilities.
13) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
14) Estimated Average Daily Trips created by the development at build-out per the Institute of Transportation Engineers Trip Generation Manual.
15) Based on estimated traffic counts, a Traffic Impact Analysis may be required stating the dates and times counts were conducted for the proposed development.
16) The approximate location of sewer and water mains, sewage disposal and water source with statements concerning the connection with and availability of existing facilities.
17) A conceptual plan for stormwater management with the location of stormwater facilities designed to serve more than one lot.
18) Calculations describing all proposed bonus factors with the location of and specifications for bonus improvements, when proposed.
19) The location and treatment proposed for all historical structures and sites recognized as significant by the County Commissioners or as identified on any historical landmarks survey for Pender County.
20) Location and timing of construction for all amenities.
21) Landscaping and Buffer requirements per Article 7.
22) All subdivided land and parcels shall comply with Section 7.2, Lot Design.
23) Homeowners Association shall be required for all major residential subdivisions with privately maintained streets, open space, and other dedicated land as stated in Section 7.3, Homeowners Association Requirements.
24) Street layout and access shall conform to Section 7.4, Street Design and Section 7.5, Access
25) Calculated open space requirements shall adhere to Section 7.12, Open Space.

6.1.3 Master Development Plan Contents - Commercial and Industrial Districts

A. The site plan shall contain a conceptual plan, showing the location and functional relationship between streets and land uses, including the following:

1) A conceptual plan, showing the location and arrangement of proposed uses.
2) The location and approximate boundaries of existing environmental features~~, including floodplains, lakes and ponds, wetlands, natural stormwater retention areas, steep slopes and woodlands~~ as defined.
3) The location and treatment proposed for all historical structures and sites recognized as significant by the County Commissioners or identified on any historical survey for Pender County.
4) ~~All proposed buffering and screening.~~ The location and extent of proposed buffers, with statements, profiles, cross sections or examples clearly specifying the screening to be provided.
5) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
6) Estimated Average Daily Trips created by the development at build-out per the Institute of Transportation Engineers Trip Generation Manual.
7) Based on estimated traffic counts, a Traffic Impact Analysis may be required stating the dates and times counts were conducted for the proposed development.
8) The proposed location of entrances to the development from existing public streets and proposed parking areas.
9) The proposed location, arrangement, and right-of-way widths of roads and streets, including roads and streets providing access to adjoining parcels.
10) Landscaping and Buffer requirements per Article 8.
11) The use of adjoining parcels and the location of adjoining streets and utilities.
12) The approximate location of sewer and water mains, sewage disposal and water source with statements concerning the connection with and availability of existing facilities.

13) A conceptual plan for stormwater management and description and the location of all stormwater facilities designed to serve more than one parcel.

6.1.4 Master Development Plan Contents – Mixed Use Districts

A. Site plan shall contain a conceptual plan, showing the location and functional relationship between all proposed housing types and land uses, including the following information:

1) A land use plan, showing the location, arrangement and approximate boundaries of all proposed land uses.
2) The location and approximate boundaries of existing environmental features as defined.
3) The proposed location of entrances to the development from existing public streets and proposed parking areas.
4) The approximate acreage in common open space, each use, housing type and in roads, streets or right-of-ways for each phase and the total development.
5) The approximate boundaries and location of common open space, with the percentage of the total acreage of the site to be placed in common open space.
6) The proposed location, arrangement, and right-of-way widths of roads and streets, including roads and streets providing access to adjoining parcels.
7) The use of adjoining parcels and the location of adjoining streets and utilities.
8) The approximate location of sewer and water mains, sewage disposal and water source with statements concerning the connection with and availability of existing facilities.
9) A conceptual plan for stormwater management and description and the location of all stormwater facilities designed to serve more than one parcel.
10) The proposed location and arrangement of all streets and utility systems.
11) The location and extent of proposed buffers, with statements, profiles, cross sections or examples clearly specifying the screening to be provided if applicable.
12) The location and approximate boundaries of proposed housing types conceptually shown in accord and with other non-residential uses dimensional requirements.
13) The proposed number of dwelling units of each type in each phase and in the total development accompanied by density calculation of the development.
14) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
15) Estimated Average Daily Trips created by the development at build-out per the Institute of Transportation Engineers Trip Generation Manual.
16) Based on estimated traffic counts, a Traffic Impact Analysis may be required stating the dates and times counts were conducted for the proposed development.
17) The approximate location of sewer and water mains, sewage disposal and water source with statements concerning the connection with and availability of existing facilities.
18) Calculations describing all proposed bonus factors with the location of and specifications for bonus improvements, when proposed.
19) The location and treatment proposed for all historical structures and sites recognized as significant by the County Commissioners or as identified on any historical landmarks survey for Pender County.
20) Location and timing of construction for all amenities.
21) Landscaping and Buffer requirements per Article 8.
22) All subdivided land and parcels shall comply with Section 7.2, Lot Design.
23) Homeowners Association shall be required for all major residential subdivisions with privately maintained streets, open space, and other dedicated land as stated in Section 7.3, Homeowners Association Requirements.
24) Street layout and access shall conform to Section 7.4, Street Design and Section 7.4, Access.
25) Calculated open space requirements shall adhere to Section 7.12, Open Space.

Section 6.2, Family Division moved to Section 6.6

6.2 MINOR SITE DEVELOPMENT PLAN CONTENTS (Existing language from Section 3.8.4)

The site plan shall be clearly legible and shall be drawn at a scale acceptable to the Administrator but not less than 1:50 on a paper size not less than 11"X17". The minor site plan shall include three general sections, the project information section, the calculations section, and the site plan and details section. The information required for each section is listed below. The following requirements may not be applicable depending upon the scope of the project; therefore, staff shall request more or less information according to the needs of the particular case.

A. Project information section.

1) A title that includes the name of the proposed or existing business and a subtitle which describes the proposed development.
2) The name, address, and phone number of the landowner, developer, and designer.
3) The Pender County Property Identification Number (PIN) of all lots included on the site plan.
4) The total developed land area included on the site plan.
5) A detailed description of the proposed use or uses of the development, as well as a description of the existing use or uses.
6) A reference to any other site plan or Master Development Plan approved by the County for the site.
7) The date the site plan was prepared and a list of all revisions made, including the date and a description of why the site plan was revised.
8) An inset map showing the location of the site, along with the location of streets, roads and land uses within 500 feet of the property.
9) A description of setbacks or conditions placed on the site as a result of an approved variance.

C. Calculations section.

1) Calculations showing the total number of required and proposed parking spaces, including the total number of existing and proposed spaces.
2) ~~Calculations showing the total number of required handicap spaces.~~

D. 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) The location of sidewalks and walkways.
15) The location and width of proposed easements and dedications.
16) The location and size of sewage disposal and water supply systems.

17) 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."
18) 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.

Section 6.3, Three Lot Division - NCDOT Road moved to Section 6.7

6.3 MAJOR SITE DEVELOPMENT PLAN CONTENTS (Existing language from Section 3.9.3)

The site plan shall be clearly legible and shall be drawn at a scale acceptable to the Administrator no less than 1:50 scale on a paper size no less than 24"X36". The major site plan shall include three general sections, the project information section, the calculations section, and the site plan and details section. The information required for each section is listed below:

A. Project information section

1) A title that includes the name of the proposed or existing business and a subtitle which describes the proposed development.
2) The name, address, and phone number of the landowner, developer, and designer.
3) The Pender County Property Identification Number (PIN) of all lots included on the site plan.
4) The number and type of dwelling units included on the site plan for residential uses.
5) The total land area and total developed land area of all lots included on the site plan.
6) A detailed description of the proposed use or uses of the development, as well as a description of the existing use or uses.
7) A reference to any other site plan or Master Development Plan approved by the County for the site.
8) The date the site plan was prepared and a list of all revisions made, including the date and a description of why the site plan was revised.
9) A table of contents including all pages of the site plan.
10) A list of all proposed utility providers, with their address, name and phone number.
11) An inset map showing the location of the site, along with the location of streets, roads and land uses within 500 feet of the property.
12) A statement listing all requirements and conditions placed on the land included in the site plan resulting from approval of conditional zoning or a special use permit.
13) A description of setbacks or conditions placed on the site as a result of an approved variance.

B. Calculations section.

1) Calculations showing the total number of required and proposed parking spaces, including the total number of existing and proposed spaces.

~~2) Calculations showing the total number of required handicap spaces.~~

C. 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) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
6) Estimated Average Daily Trips created by the development at build-out per the Institute of Transportation Engineers Trip Generation Manual.
7) Based on estimated traffic counts, a Traffic Impact Analysis may be stating the dates and times counts were conducted for the proposed development.
8) A North arrow.

9) A graphic scale and statement of scale.
10) A legend describing all symbols and other features that need description.
11) The present zoning of all portions of the site, with the location of zoning boundaries.
12) The location of all existing and proposed structures, with the height, specific use, ground floor area, and total floor area labeled.
13) The location of all existing and proposed outdoor uses, with the height, specific use, and land area labeled.
14) Existing topographic contour lines at intervals acceptable to the Administrator. Proposed finished grades shall be shown by contour.
15) The location of the front, side, and rear yard setback lines required by the applicable zoning district.
16) The location and boundaries of existing environmental features, including streams, floodplains, lakes and ponds, wetlands, natural stormwater retention areas, steep slopes, and woodlands.
17) The location of outdoor trash receptacles.
18) The location of all outdoor lighting fixtures.
19) Signage requirements per Article 9.
20) Landscaping and Buffer requirements per Article 7.
21) The location of sidewalks and walkways.
22) The location and width of proposed easements and dedications.
23) A stormwater management plan describing the location of all stormwater management facilities with design calculations and details.
24) A soil erosion and sedimentation plan describing methods to be used.
25) The location and size of sewage disposal and water supply systems.
26) A signed seal of the certified design professional who prepared the plan.
27) 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."
28) 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.

Section 6.4, Three Lot Division – Private Road/Access Easement moved to Section 6.8

6.4 PRELIMINARY PLAT CONTENTS (Existing language from 3.6.2)

Preliminary plats not illustrating or containing the following data shall be returned to the developer or his authorized agent for completion and resubmission.

A. The preliminary plat shall be prepared in accordance with the following specifications:
1) The plat must be prepared by an authorized Licensed Professional.
2) The name of the subdivision.
3) The name(s), address(es), and telephone number(s) of the owner(s), registered land surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the registered land surveyor(s).
4) A sketch vicinity map at an appropriate scale, showing the relationship between the subdivision and the surrounding area.
5) The exact boundary lines of the tract to be developed fully dimensioned by bearings and distances, and the location of intersecting boundary lines of adjoining lands.
6) Scale at 1" = 50' or larger, denoted both graphically and numerically.
7) North arrow in accordance with the Standards of Practice for Land Surveyors.
8) Approved road names.
9) Landscaping and Buffers shall be shown on the site plan and adhere to the landscaping standards set forth in Article 7, Landscaping and Buffers.
10) All subdivided land and parcels shall comply with Article 7.2, Lot Design.

11) Homeowners Association shall be required for all major residential subdivisions with privately maintained streets, open space, and any other dedicated land as stated in Section 7.3, Homeowners Association Requirements.
12) Street layout and access shall conform to Section 7.4, Street Design and Section 7.5, Access.
13) Calculated open space requirements must adhere to Section 7.12, Open Space.
14) The location, purpose, and dimensions of areas to be used for purposes other than residential;
15) The names of current owners of adjacent landowners along with PIN, current uses, other legal reference where applicable, shall be shown.
16) The location and measurements of all proposed minimum building setback lines.
17) The location and dimensions of all proposed and existing rights-of-way, utility or other easements, riding trails, pedestrian or bicycle paths, natural buffers, and areas if any to be dedicated to public use with the purpose of each stated.
18) Existing traffic counts for road(s) and intersection(s) studied and dates/times counts were conducted.
19) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
20) Based on estimated traffic counts, a Traffic Impact Analysis may be required stating the dates and times counts were conducted for the proposed development.
21) Right-of-way lines and pavement widths of all roads and the location and width of all adjacent roads and easements.
22) Property lines, buildings or other structures, water courses, railroads, bridges, culverts, storm drains, and corporate limits, township boundaries, and county lines.
23) Sufficient survey to determine readily and reproduce on the ground every straight or curved boundary line, road line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the center line of curved roads and curved property lines that are not the boundary of curved roads. All dimensions shall be in accordance with the Standards and Practices of Land Surveyors.
24) The accurate locations and descriptions of all monuments, markers, and control points.
25) The blocks lettered alphabetically throughout the entire subdivision and the lots numbered consecutively throughout each block.
26) The date of the survey and the plan preparation; with spaces per subsequent revision.
27) The name of the township, county, and state in which the subdivision is located.
28) Deed book and reference of ownership acquisition.
29) Certificate of approval by the Pender County Addressing Coordinator for proposed road names.
30) Compliance with all applicable requirements of this Ordinance.
31) Agreement with the most recently adopted CAMA Land Use Plan and any other applicable adopted land use document(s). Reference of recently approved MDP.
32) For non-residential and multifamily projects, the location of trash handling, recycling, grease bins, and other waste-related facilities employed in the normal operation of the use.
33) The location and design of parking areas and pedestrian and vehicular access points.
34) That the design of traffic patterns, traffic control measures and street pavement areas, including plan profiles and cross section views, and with provisions for maintaining traffic flows for both public use as well as emergency management services are consistent with the requirements of this Ordinance.
35) Compliance with site construction specifications.
36) Stormwater facilities, water supply, sanitary sewer service, fire protection and hydrants, street signs, and street lighting designed in conformance with department standards, specifications and guidelines; Plan profile and cross section of drainage and utility services and
37) Other proposed easements or dedications as required.

B. Additional materials to be submitted with the preliminary plat:

1) Soil suitability analysis indicating the suitability of the property for individual septic tanks or an Improvement Authorization Permit for each lot unless community sewer is available and a conditioned approval for connection is submitted. The soil suitability analysis of the property shall also indicate the suitability of the soil for the type structures proposed.

2) Sufficient information shall be provided so that a corner of the property can be located on the ground and found with a measurement from the intersection of two state maintained roads.
3) A copy of the Preliminary Plat with the street names as approved by the Pender County Addressing Coordinator or his/her designee.
4) Verification of receipt of the preliminary plat of the development by the Pender County Health Department.
5) Verification of receipt of the preliminary plat of the development by the NCDOT District Engineer or his designee.
6) General description and map of the proposed drainage for the subdivision shall include the following:
    a. The boundaries of all drainage basins that flow through the property from upstream.
    b. All drainage facilities that flow through the property and receive any stormwater discharge from upstream.
    c. The boundaries of all drainage basins that receive discharge from the property that is located from the discharge point on the property to the recipient perennial stream.
    d. All drainage facilities that receive stormwater discharge from the property from the discharge point to the recipient perennial stream.
    e. This information can be described in a narrative submission and shown on a copy of a USGS 7.5 Minute Quad or other similar topographical map (11 X 17 map submission).
    f. Detailed description of any proposed waste water system and system maintenance arrangements and procedures to serve lots that are not suitable for traditional onsite septic systems, along with a map showing the proposed location of the offsite components of the system, including lines.
    g. When any development proposes private streets a description of the method to provide Pender County Emergency Service personnel and vehicles immediate access shall be submitted.
    h. When any street layout or geometric design does not specifically meet the NCDOT Secondary Road Standards or the adopted Pender County Private Street Standards, a narrative explanation, justification detailed drawing of the design shall be submitted for review.
    i. When the subdivision entrance does not connect to a NCDOT maintained road, recorded documents shall be submitted that confirm the property and the proposed lots have access to a NCDOT maintained road by a public or private street that meets the standards of this ordinance.
    j. The Administrator or the Planning Board may request additional information be submitted that is pertinent to review of the proposed subdivision for compliance with the provisions of this ordinance or other Pender County ordinances.

C. The Following Material May Be Submitted As a Condition of Approval of the Preliminary Plat, When Approved By the Planning Board or Administrator
1) Approval by NCDOT of connection of subdivision roads with DOT maintained roads (Driveway Permit).
2) Street construction & street drainage plans as approved by DOT District Engineer with letter of approval (for public streets).
3) Street construction & street drainage plans in accord with DOT submittal requirements, design and construction standards or in accord with Article 6.3, Street Design, private street standards. The plans must be signed and sealed by a registered surveyor or engineer. A letter from the design professional will accompany the plans certifying that they meet the NCDOT submittal requirements, design and construction standards or Private Street Standards, Pender County (for private streets).
4) One or both of the following items will be required for any development utilizing a community water or wastewater system:
    a) Water System:
        i. Constructions plans sealed by a registered engineer, as approved by DENR,
        ii. Acceptance of operation and maintenance of the system by a Public or Community Water system as defined in this ordinance,

iii. Certification that the system will be owned by a Public or Community Water system as defined in this ordinance with conditional acceptance of ownership or certification that the system will be owned by a homeowners association established under the provisions of this ordinance.

b) Wastewater system

i. Construction plans sealed by a registered engineer, as approved by DENR, acceptance of operation and maintenance of the system by a Public or Community Water system as defined in this ordinance

ii. Certification that the system will be owned by a Public or Community Water system as defined in this ordinance with conditional acceptance of ownership or certification that the system will be owned by a homeowners association established under the provisions of this ordinance.

c) Approval from the Division of Coastal Management when the development is located in an Area of Environmental Concern.

d) Sediment & Erosion Control Plans as approved by Land Quality (with letter of approval).

e) Stormwater management plan as approved by the Water Quality Division (with letter of approval).

f) Approval of Wetlands Delineation by the Army Corps of Engineers (USACE) (if wetlands in development).

g) Wetlands fill authorization or permit if construction in wetlands is involved.

h) A drainage plan that will include all portions of the development shall be submitted. This plan shall be prepared and sealed by a registered engineer. The plan and facilities shall provide for a drainage system for these areas that will accommodate the ten-year storm event without flooding or substantial ponding of water in the areas included in the plan. The plan must also accommodate any discharge from properties in upland portions of the drainage basin that flows through the property for the same storm event for the type development for which that property is zoned. The boundary of any drainage area on a portion of the site and/or upland from the site and drainage areas between stormwater discharge points from the site to the recipient perennial stream shall be shown on a map (copy of 7.5 min. USGS Quad or similar map). Any drainage facility receiving stormwater discharge from the development shall have the capacity to carry the anticipated stormwater flow from areas that discharge through them for the 10 year storm event from the point of discharge at the development to the recipient perennial stream without over flowing their banks. The location, size and/or capacity of all structures included in the drainage system and receiving discharge from the development to the recipient perennial stream shall be shown on the plan and calculations used in designing the drainage system shall be submitted in a legible format. This plan may be included in the street and drainage plan, stormwater management plan or on the preliminary plat, as long as the design professional certifies that the specific drainage plan submitted complies with these requirements and the information required is shown or submitted.

i) When any proposed subdivision of land with lots or areas other than open space where structures are prohibited is located in a "Designated Floodway," a "No Rise Certification" prepared by a Registered Engineer shall be submitted for the development.

j) When a proposed subdivision is located in a SFHA the Base Flood Elevation (BFE) shall be determined and shown along with the SFHA boundary on the Preliminary Plat. In SFHA's where the BFE has not been previously determined, the Developer shall be responsible for providing the BFE as determined by a Registered Professional in the manner prescribed by FEMA Regulations.

k) When a proposed subdivision is located within a SFHA and any water or sewer systems are not located on the site of the structure served, a statement from the Registered Professional responsible for design of the offsite system shall be provided that "all public or community (offsite) sewer and water systems and drainage facilities are designed to minimize flood damage and reduce exposure to flood hazards in accord with FEMA Guidelines."

Section 6.5, Minor Subdivision moved to Section 3.9

6.5 FINAL PLAT CONTENTS (Existing language from Section 6.7.1, Final Plat Submission and General Provisions)

A. **Submission Requirements and General Provisions**

1) The final plat shall be reviewed and approved or disapproved and notice of action taken provided to the applicant within 30 working days of completed submission. When the final plat is approved the signed original will be provided to the applicant and a signed copy placed in the Record File for the subdivision.
2) Upon approval of the final plat by the Administrator, the subdivider shall record the final plat with the County Register, as provided for by that office, within ninety (90) days after the approval. Otherwise the approval of the final plat shall be considered void.
3) Plat Submission – the final plat must be submitted in digital format to the Administrator. The digital submission of the plat will be considered proprietary information. The digital layout will be made available to the Tax Supervisor for parcel update and the digital submission may be returned to the person submitting it. A copy on mylar suitable for recording shall be submitted for signing upon review & approval of the final map. The final plat shall be reviewed, approved and signed by the Administrator.
4) All conditions of preliminary plat approval must have been met before any final plat will be considered for review. Confirmation of compliance with all provisions of Preliminary Plat must be submitted at least 10 days before the final plat is accepted for review.
5) 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:
    a. 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,
    b. Be served by a Community Sewer System as defined in this ordinance and approval for connection to the system is provided,
    c. 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,
    d. 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,
    e. Lots not meeting a., b., c., or d. 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."
    f. For alternative, see Design Requirements, Lots Section of this ordinance for "Special Purpose Lots."
6) All improvements proposed in the development must have been constructed and certifications of completion to standards specified provided or their construction guaranteed by a Performance Guarantee referenced in Appendix D.
7) All public streets must have been constructed, inspected and approved in writing by the NCDOT District Engineer or a Performance Guarantee provided.
8) Minimum Number of Lots Required on a Final Plat – the minimum lots included on the final plat shall be as follows:
    a. Up to 10 lots – 100%
    b. 11 – 34 lots – 50% upon initial recordation, remainder thereafter
    c. 35 – 100 lots – minimum of 25 lots/units upon initial recordation, minimum increments of 10 lots thereafter

d. 100 or more lots – minimum of 50 lots/units upon initial recordation, minimum increments of 10 lots thereafter.

9) The completed final plat must be submitted within 24 months of approval of the preliminary plat or within 24 months of approval of a previously recorded final plat.
10) The final plat must be prepared by a licensed surveyor.
11) The final plat must conform generally to the preliminary plat and specifically to all conditions of approval of the preliminary plat.
12) Upon initial approval of the final plat parcel layout the Administrator shall immediately notify the Tax Assessor so that parcel identifiers can be issued.
13) The final plat, approved covenants, restrictions and homeowners' association documents must be recorded in the Register of Deeds within 60 days after approval by the Administrator and prior to any sale of lots in the development.
14) The Administrator must take action on the final plat within 15 working days of completed submission and installation of improvements or security for improvements.
15) A final plat will not be accepted for review that is incomplete or for which has not been submitted the documents necessary for verification of the conditions of Preliminary Plat approval.

B. **Additional Material to Be Submitted With Final Plat**

1) Certification by District Engineer of completion of construction of all public streets or all of the following:
   a. Estimate of the cost to complete construction of the streets and all other improvements required or proposed in the development that are not complete, prepared, signed and sealed by a licensed engineer,
2) Performance Guarantee for the cost of all improvements not certified as complete.
3) Certification by a licensed engineer of the completion of construction of all private streets and other required improvements, or all of the following:
   a. Estimate of the cost to complete construction of the streets and all other improvements required or proposed in the development that are not complete, prepared, signed and sealed by a licensed engineer,
4) Certification by a professional land surveyor of installation of all required monuments and markers.
5) Two copies of Articles of Incorporation of Homeowner's Association and related documents for any development that contains private streets or other non-public facilities, including drainage systems outside public street right of-ways, water systems and sewer systems and open space.
6) Two copies of the restrictive covenants to be recorded on the property.
7) The Defect Guarantee when a Performance Guarantee has not been provided for improvements.
8) Draft document transferring ownership of all common area and facilities to the Homeowners Association as shown on the final plat of the portion of the subdivision to be recorded. A recorded copy of this document must be submitted to the Administrator within 30 calendar days of recording of the final plat (see "Homeowners Association Requirements" Section).

C. **Certificates Required on Final Plat**

The following Certificates can be found in Appendix D.

1) Certificate of Ownership, Dedication and Jurisdiction
2) Certificate of Approval Subdivision Public Road Construction by NCDOT District Engineer
3) Surveyor Certificate I
4) Surveyor Certificate II
5) Parcel Identifier Certificate
6) Certificate of Registration by Register of Deeds (unsigned)
7) Certificate of Final Plat Approval

Section 6.6, Major Subdivision moved to Section 3.10

6.6 FAMILY DIVISION (Existing language from Section 6.2)

6.6.1 Limitations

A. Family subdivisions are permitted on parcels that have been created and recorded in the Registry before March 29, 2004.

B. A total of three parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance ~~and the Zoning Ordinance~~) per qualified resident household will be allowed to be created under the family subdivision provisions.

C. The division does not create a new public or private street.

6.6.2 Requirements

A. The plat shall be clearly designated "Family Subdivision" in bold letters,

B. Grantor and Grantee statement, located in Appendix D, shall appear on the plat and be signed by the Grantor(s) and Grantee(s) prior to approval.

C. Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each lot toward a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,

D. The plat shows any designated Special Flood Hazard Areas located within the subdivision,

E. The plat shows any designated Areas of Environmental Concern located within the subdivision

F. An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer

G. The lots, other than those restricted for building development, shown on the plat meet the requirements of this Ordinance.

H. The lots created have access to an access easement as defined in this Ordinance.

I. The access easement must provide access to a public street.

J. 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."

a) For alternative, see Design Requirements, Lots Section of this Ordinance for "Special Purpose Lots"

K. The lots created have either direct access to a public street, private street or private access easement as defined in this Ordinance.

L. A minimum passable travel way 20 feet wide shall be provided within a forty five (45') foot easement at time of zoning approval.

M. Clearing and grubbing shall be completed five feet of each edge of the travel way;

N. Maintenance. Upon determination by the Administrator that such travel way as approved are not passable, the Administrator may, in addition to other remedies, prevent issuance of any further development approvals until such travel ways are in a proper state of maintenance as determined by the Administrator.

O. The Administrator shall review the subdivision to insure that the development will not block future access to properties that are adjacent to the lots.

P. The plat contains the following note: "All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines."

Q. The plat must contain the following note: "All new access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances."

Section 6.7, Final Plat to Section 6.5

6.7 THREE LOT DIVISION - NCDOT ROAD (Existing language from Section 6.3)

6.7.1 Limitations – The following limitations will apply to three lot subdivisions:

A. Three lot subdivisions located on an existing NCDOT maintained or other public road will be limited to no more than three such parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this Ordinance ~~and the zoning Ordinance~~) being created from any parcel that had been created and recorded in the Registry before March 29, 2004.

B. The division does not create a new public or private street.

6.7.2 Requirements – The following shall be submitted to the Administrator with each proposal for a division of up to three lots fronting on an existing NCDOT maintained public road:

A. Plat prepared as required by NCGS §47-30,The plat shall be clearly designated "Three Lot Subdivision on NCDOT Road" in bold letters,

B. Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each lot toward a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,

C. The plat shows any designated Special Flood Hazard Areas located within the subdivision

D. The plat shows any designated Areas of Environmental Concern located within the subdivision,

E. An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer.

F. The lots, other than those restricted for building development, shown on the plat meet the requirements of this Ordinance,

G. 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."

H. The lots created have access to a NCDOT maintained public street.

I. The Administrator determines that the subdivision complies with the limitations on Three Lot Subdivisions contained in the General Provisions Section of this ordinance.

J. The Administrator shall review the subdivision to insure that the development will not block future access to properties that are adjacent to the lots.

K. The plat contains an ownership and dedication statement signed by the owner or owners in the format provided by this ordinance.

L. The plat contains the following note: "All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines

Section 6.8, Certificates Required moved to Section 6.5 C

6.8 THREE LOT DIVISION – PRIVATE ROAD/ACCESS EASEMENT (Existing language from Section 6.4)

6.8.1 Limitations - The following limitations will apply to three lot subdivisions:

A. Three lot subdivisions located on an access easement will be limited to no more than three such parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this ordinance ~~and the zoning ordinance~~) being created from any parcel that had been created and recorded in the Registry before March 29, 2004.

B. Three lot subdivisions located on an access easement as defined in this ordinance will be limited to three such parcels (excluding the remnant parcel, if the remnant parcel meets the requirements of this ordinance being created from any parcel that had been created and recorded in the Registry before March 29, 2004 or any parcel that has been created and approved by the Administrator under the provisions of this ordinance.

C. The division does not create a new public or private street.

6.8.2 Requirements -The following shall be submitted to the Administrator with each proposal for a division of up to three lots fronting on an access easement that provides access to an existing NCDOT maintained public road:

A. Plat prepared as required by NCGS §47-30,

B. The plat shall be clearly designated "Three Lot Subdivision on Access Easement" in bold letters,

C. Certification by the Licensed Professional preparing the plat that each lot is adjacent to a natural drainage way or perennial stream or a 20 ft. drainage easement is recorded from each lot to a natural drainage way or a perennial stream or if the lot or lots front on a NCDOT maintained road, approval from NCDOT for such lots to drain to the public road,

D. The plat shows any designated Special Flood Hazard Areas located within the subdivision,

E. The plat shows any designated Areas of Environmental Concern located within the subdivision,

F. An Improvement Authorization Permit from Environmental Health for each lot to be created, a soil suitability analysis for each lot to be created or approval to connect to existing public sewer.

G. The lots, other than those restricted for building development or designated and reserved for open space, shown on the plat meet the requirements of this Ordinance ~~the Zoning Ordinance~~,

H. 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."

I. The lots created have access to an access easement as defined in this ordinance,

J. The access easement that provides access to a public street is no longer than 500 ft.

K. A minimum passable travel way 20 feet wide shall be provided within a forty five (45') foot easement at time of zoning approval.

L. Clearing and grubbing shall be completed five feet of each edge of the travel way;

M. Maintenance. Upon determination by the Administrator that such travel way as approved are not passable, the Administrator may, in addition to other remedies, prevent issuance of any further development approvals until such travel ways are in a proper state of maintenance as determined by the Administrator.

N. The Administrator determines that the subdivision complies with the limitations on Three Lot Subdivisions contained in the General Provisions Section of this ordinance.

O. The plat contains an ownership and dedication statement signed by the owner or owners.

P. The plat contains the following note: "All new access easements shown or designated on this plat, include the transfer of an easement to public entities and public utilities for the purpose of installation and maintenance of water, sewer, electric and communication lines."

Q. The plat must contain the following note: "All new access easements shown or designated on this plat include the transfer of an easement to Pender County, its employees and agents for access for emergency personnel (police, fire & rescue) and Pender County and its employees for administration of all Pender County Ordinances."

ARTICLE 7 DESIGN STANDARDS (New article)

7.1 GENERAL

The regulations set forth in this article apply to the design standards and contents required for master development plans, preliminary plats, final plats, major site plans, and minor site plans.

7.2 LOT DESIGN (Existing language from Article 6.10)

7.2.1 Requirements

A. All lots not designated as open space, recreation, street or other reserved area shall meet all area, usable area, size, dimensional, yard and density requirements contained in Article 4, Zoning Districts and Zoning Map.

B. All new lots ~~in a minor or major subdivision~~ not designated as open space, recreation, street or other reserved area that front on a public or private street shall meet minimum lot width requirements.

~~C. All new lots shall front on a public or private street or an access easement for a distance of 45 ft.~~

D. No more than three lots may be created that are provided access by a single access easement. All lots or parcels shall meet the minimum access requirements established in this Ordinance.

E. Access easements may not be included to meet any minimum lot area or dimension requirements for a lot or right of way.

7.2.2 Access to Adjacent Properties

Lots shall be arranged to allow for the opening of future streets and logical further subdivision of adjacent properties.

7.2.3 Double Frontage Lots

Lots that have double frontage on streets shall be prohibited except where it provides separation of residential development from traffic arteries. A buffer of at least 10 feet in width with no right of access abutting such traffic arteries shall be provided on these double frontage lots.

7.2.4 Lot Line Configuration

Sidelines of lots shall be at or near right angles or radial to street lines, unless physical features of the property indicate otherwise.

7.2.5 Lot Lines & Drainage

Lot boundaries shall coincide with natural, existing and new drainage ways to the extent practical to avoid lots that require alteration of drainage ways in order to be built upon.

7.2.6 Lots on Thoroughfares

Major or minor subdivisions shall not be approved that provide for individual residential lots to access Principal Arterial, Minor Arterial or Major Collector roads or streets as shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State Transportation Improvement Plan.

7.2.7 Lots on Collector Streets

Major subdivisions shall not be approved that provide for individual residential lots to access Minor Collector roads or streets as shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State of Federal Transportation Improvement Plan.

7.2.8 Access

All single family dwelling subdivision lots shall have frontage upon a public or private street or access easement. All multi-unit developments shall provide access to a public street directly from each unit or from

each unit across a common area owned by the multi-unit development or owned by a Homeowners Association to which the dwelling unit owner is required to be a member.

7.2.9 Flag Lots

A. Flag lots as defined in the Ordinance shall be subject to the following requirements:

1) Flag lots will be approved by the Planning Board or Administrator only where the owner or applicant justifies in writing where the property has unusual topographical, soil or other natural features that would make street construction impractical or unusually expensive,
2) The panhandle or access portion of the lot must be at least 45 ft. wide,
3) The panhandle or access portion of the lot must be no longer than 250 ft.,
4) The panhandle portion of the lot shall not count toward the minimum lot area, usable lot area, dimension or set back requirements for the lot,
5) No more than three lot panhandles shall be located on any 750 ft. street segment, including both sides of the street,
6) Only one single family dwelling unit may be located on a flag lot,
7) All flag lot panhandles shall access a public or private street,

7.2.10 Special Purpose Lots

A. Special purpose lots that do not meet the minimum lot area, minimum lot dimensions, minimum access requirements or other requirements of this ordinance may be approved by the Planning Board or Administrator under the following circumstances:

1) The lot has a 20 ft. access easement to a public or private road,
2) The final plat contains the following note for the lot: "This lot must meet any buffer and landscape requirements contained in this Ordinance,"
3) The final plat contains the following note for the lot: Lot shall be used only for the purpose ___ of and any structures (other than fences) located on the lot shall be 10 ft. from any property line,"
4) The final plat contains the following note for the lot: "Buildings for permanent human [or animal (as appropriate)] occupancy not allowed on this lot,"
5) The use approved for the lot is a use allowed in the Zoning District in which the lot is located.

7.3 HOMEOWNERS ASSOCIATION REQUIREMENTS (Existing language from Section 6.12)

Homeowners Associations shall be required for all ~~(non RA)~~ ~~major residential subdivisions~~ developments with dedicated improvements such as privately maintained streets and/or open space dedications and must be recorded along with the first phase of a final plat to encompass the entire development with an outline of amenities/land transferred to the said HOA at or before 25% of all units are constructed.

7.4 ACCESS

A. Requirements

1) All lots shall have direct or indirect access to a public street, private street, or private access easement.
2) Every structure erected or moved in all residential districts shall be on a lot adjacent to or having access to a public right of way, street, or road not less than thirty (30) feet in width. When the lot is not adjacent to the public road, the easement must be a minimum of twenty (20) feet wide.
3) Required access must provide a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.
4) Proposed public and private access off of an existing state maintained road shall be required to apply for a NCDOT Driveway Permit.
5) Non residential developments applying for access to a collector street shall review internal circulation and access points to determine possible impacts to the surrounding properties and street system.
6) A cross access corridor may be required to provide common access and circulation among adjoining parcels in order to assist in local traffic movement in non residential developments.

7.4.2 Driveway Permits

A. An NCDOT driveway permit shall be required for driveways serving any new use or change of use that access a state maintained road.

B. Driveways shall meet NCDOT driveway standards.

C. Parking in driveways shall not be permitted unless it is determined by the Administrator and Emergency Management that access will not be impaired.

7.4.3 Sight Triangles

A. On any corner lot, a sight triangle shall be established. The sight triangle shall be formed by extending lines from the intersections of two streets to points twenty five (25) feet from the intersecting streets and then connecting the two points.

B. For any driveway, a sight triangle measuring ten (10) feet from the back of the curb and extending seventy (70) feet from the edge of each side of the driveway shall be required.

C. Within the sight triangle, no objects which would impede traffic visibility shall be allowed. Structures, fences, and plant materials that extend into the sight triangle between two and a half feet and eight feet in height, as measured from the grade of the street or drive, shall not be allowed. In certain circumstances, increased site triangle distances may be required to conform to NCDOT requirements.

7.4.4 Cross Access Corridors

A. Definition

Cross access corridor are driveways constructed between adjoining properties to provide an alternative passageway to access adjoining developments without entering and exiting the roadway. These cross access corridors are intended to link parking areas on adjoining developments

B. Applicability

1) Cross access corridors shall be required for all non residential adjacent properties.
2) Cross access corridors are encouraged for all other developments.
3) The administrator may modify or waive these requirements of this section if it can be proven that strict compliance would be impractical due to unique site conditions such as environmental concerns, safety concerns, extreme slope, or similar characteristics.

C. Requirements

1) Cross access corridors shall be designed to provide unified circulation and access between sites
2) The minimum width for a cross access corridor is 20 feet to accommodate two way travel.
3) Cross access corridors must be set at least 20 feet from any paved public roadway.
4) If a site is developed adjoining to an undeveloped parcel, it shall be designed so that its parking, access, and circulation are easily tied together to create a unified system at a later date. If the building site abuts an existing developed property, it shall tie into the abutting parking, access, and circulation to create a unified system when possible. This shall be accomplished by requiring the applicant to:
   a) Construct a cross access future connection to the property line to allow for future connection or dedicate an easement of sufficient width to accommodate a future cross access corridor.

D. Maintenance and Operation

1) Where a cross access is developed, the owners/developers of the affected properties shall provide for mutually coordinated parking, access, and circulation systems, and shall provide design features as necessary to make it visually obvious that abutting properties shall be tied together for create a unified system.
2) In order to maintain a clear passage for emergency and non emergency travel, no parking shall be allowed in a cross access corridor.

7.5 STREET DESIGN (Existing language from Section 6.13)

7.5.1 Public and Private Street Design

A. Layout of streets as to arrangement, width, grade, character, and location shall conform to the following:
   1) Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State of Federal Transportation Improvement Plan.
   2) adjoining street systems,
   3) existing, planned and proposed streets, topographic, drainage and other natural features of the property,
   4) to provide for continuity in existing streets and proposed streets,
   5) provide adequate right-of-way for collector streets,
   6) reasonable access will be provided to adjacent properties for development.

B. Spite strips along development boundaries preventing access to streets from adjacent properties are prohibited.

C. Street Alignment – local residential street intersections should be directly aligned if possible.

D. When such intersections cannot be aligned, they shall be offset centerline to centerline by not less than 125 ft. Intersections of Collector streets as defined herein or shown on the Coastal Pender Collector Street Plan, Pender County Transportation Plan or other approved State Transportation Improvement Plan.

E. Streets should intersect as nearly as possible at right angles.

F. Permanent dead end streets (cul-de-sacs) or temporary dead end (stub) streets shall be no longer than 1,000 ft. unless it is demonstrated by the developer that the configuration of the property prevents its development without longer streets to provide access to the lots and common area to be subdivided. Temporary dead end or stub streets shall provide turn around capabilities to meet NCDOT requirements. The Cul-de-sac end shall be a bulb type with minimum radii as follows: Curb & Gutter Section: RW = 45', Pavement = 37' to gutter edge, Shoulder Section: RW =50', Pavement = 35'.

G. Applicants for subdivision approval shall obtain approval for street names from the Pender County Addressing Coordinator. A copy of the approved preliminary plat with approved street names must be submitted to the Administrator within 30 days of approval of the preliminary plat and prior to final plat submission.

H. Sight ~~easements~~ triangles as required in the NCDOT Secondary Roads Standards shall be provided at all street intersections.

7.5.2 Public Streets

All designated public streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards.

7.5.3 Private Streets

A. All designated private streets shall be designed and constructed in compliance with the current NCDOT Subdivision Roads Minimum Construction Standards. However, variations to right-of-way widths and geometric design may be permitted upon Planning Board review and approval where certain features such as topography, environmental features, low impact development design or unique needs of a development exist at the Master Development Plan approval.

B. Developments with private streets shall make provisions for immediate access for Pender County Emergency Service (Law Enforcement, Fire & Rescue) vehicles and employees to the development and shall provide for an easement for such services and an easement shall be provided to Pender County and its employees for administration of Pender County Ordinances.

C. Subdivisions with private streets will be subject to requirements to construct public collector streets under any of the following conditions:
   1) When the subdivision contains streets that have any dimension of more than 5280 ft.,
   2) When any street in the subdivision has the potential to serve more than 200 residential or commercial units,

3) When access to any lot or unit in the subdivision is more than 5280 ft. by a private street to a public street,
4) When existing public streets have been dedicated or constructed to the property line of the subdivision,
5) When access to adjacent properties will be hindered as a result of private streets being allowed in the subdivision.

D. All subdivisions that have any private streets must meet the minimum qualifying requirements contained in the Required Improvements section of this ordinance.

E. All subdivisions proposing new construction of streets must provide a Certificate of Disclosure: Private Roads found in Appendix D

7.6 OPEN SPACE (Existing language from Section 6.18)

7.6.1 Requirements

A. Every subdivider of land for residential purposes shall dedicate a portion of such land, as set forth herein, for the purpose of providing, active and passive recreation areas to serve the residents of the immediate neighborhood within the subdivision.

B. Open Space Areas Can Be Defined By Active Or Passive Open Space As Follows:
1) Active Open Space consists of areas such as park land chosen without regard to natural features for the explicit purposes of enhancing design, such as village commons, or providing space for outdoor recreation activities which may include, but not be limited to, tennis courts, ball fields, swimming pools, and tot lots with play equipment.
2) Passive Open Space areas must consist of undisturbed, unique and sensitive natural features when available, that may include streams, floodplains, wetlands (excluding tidal marsh) conservation resources, and natural heritage areas if identified. These natural spaces will be characterized by undisturbed soils and natural vegetative cover for wildlife habitat. Passive Open space may become part of designated County greenways. Amenities such as walking paths, piers, picnic areas and other passive recreational uses will be allowed with minimal disturbance of the vegetation.

C. Required Open Space: All new residential subdivisions shall provide open space in the amount of 0.03 acres per dwelling unit within the subdivision. No more than 50% of the required open space shall be designated as passive open space. 50% or more of the required open space shall be designated as active open space.

D. Exemptions to Open Space
1) Density calculations of a development that is one unit per acre or greater in the RP and RA Zoning Districts.
2) Developments consisting of 10 units or less.

E. Standards for Park, Recreation and Open Space Areas: Except as otherwise approved by the Planning Board, all park, recreation and open space areas shall meet the following criteria:
1) Unity - The dedicated land shall form a single parcel of land, whether or not the subdivision is developed in phases or sections, except where it is determined by the appropriate governing body, that 2 or more parcels would be in the best interests of the residents of the subdivision and the public; and in such case, the appropriate governing body, may require that such parcels be connected.
2) Shape - The portion of dedicated land to be used for active recreation shall be of such a shape to be usable for active recreational facilities including but not limited to tennis courts, racquetball courts, swimming pools, exercise rooms, clubhouses, athletic fields, basketball courts, swings, slides and play apparatus.
3) Greenways - If open space is a greenway, the land shall be a continuous linear parcel through the subdivision of at least 30 feet in width.
4) Location - The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the immediate neighborhood within the subdivision for which the land dedication is made and can be combined with an adjacent park.

5) Access - All dwelling units in the subdivision shall have suitable, safe, and convenient ingress and egress to and from the park, recreation and open space areas provided within the development by means of improved streets or dedicated walkways. Rights-of-way for such access shall be shown on the preliminary plans and final plats.
6) Required Stormwater Detention/Retention Facilities - Required stormwater detention/retention facilities shall not be accepted to fulfill the requirements set forth by this section. However, the County may allow significant natural water bodies (SNW's) such as lakes and streams to be counted as qualifying active open space provided that public ancillary features such as docks, piers, launching facilities, or paddle trails, or other aquatic amenities are provided. Such facilities shall be reviewed and approved by appropriate state agencies and the Planning Board at the time of Master Plan approval.
7) Landscaping - Park, recreation and open space areas which include amenities such as tennis courts, racquetball courts, swimming pools, exercise rooms, clubhouses, athletic fields, basketball courts, swings, etc. shall be landscaped and shall be provided with sufficient natural or manmade screening or buffer areas to minimize any negative impacts upon adjacent residences
8) Encroachments - The park, recreation and open space areas required by this Article shall exclude roadways, parking areas and other accessory uses except for areas associated with recreational facilities.
9) Consistency with Pender County Parks and Recreation Comprehensive Master Plan - If any portion of any subdivision proposed for residential development lies within an area designated on the officially adopted Plan as a park, such area shall be included as part of the area set aside to satisfy the requirements of this Article up to the maximum requirement of open space calculations. This area shall be reserved for public use.
10) Procedure for Dedication of Land:
    a) Designation of Land to Be Dedicated - Subdivider shall designate on the Master Plan, the area or areas to be dedicated pursuant to this Article.
        i) Review of Land to Be Dedicated - Upon receipt of the Master Plan, the Administrator shall submit a copy thereof to the appropriate governing agency for review. The appropriate governing agency shall submit any and all recommendations concerning the land to be dedicated to the Planning Board at its next scheduled meeting.
        ii) Ownership - The type of ownership of land dedicated for park, recreation or open space purposes shall be selected by the owner, developer, or subdivider, subject to the approval of the Planning Board. Provided, however, any of such areas included in the master parks plan shall be dedicated to the county. The type of ownership may include, but is not necessarily limited to, the following:
            a. The county, subject to the acceptance by the Planning Board;
            b. Other public jurisdiction or agencies, subject to their acceptance;
            c. Appropriate non-profit agencies, subject to their acceptance;
            d. Property owner, condominium or cooperative associations or organizations.

7.6.2 Recreational Units

All developments not meeting the criteria set forth in Article 6.18.1.D. and contain 34 units or more will be required to provide recreational units equivalent to credits established in the following table. Recreational units are intended to serve the subject development itself but may be suitable or planned to serve the surrounding community. The facilities shall be in a configuration and location that is easily accessible to the dwelling units that they are designed to serve and may be placed within active or passive open space required areas. The design and amount of facilities shall be approved by the Planning Board, Administrator, and Parks and Recreation representative to the TRC at the time of Master Plan approval. Recreational units are assigned a financial unit to be achieved via installation on the subject property or through a payment in lieu of in conjunction with the approved Pender County Parks & Recreation Master Plan. The timing of the installation or payment in lieu of installation shall be confirmed on the master plan.

Dwelling Units	Recreational Unit(s)	Financial Unit
34-99	1.0	$10,000
100-150	1.5	$15,000
151-200	2.0	$20,000
201-250	2.5	$25,000
251-300	3.0	$30,000
301-350	3.5	$35,000
351-400	4.0	$40,000

*The figures referenced above shall be carried up to 1,000 dwelling units/10.0 recreational units or $100,000. Developments exceeding 1,000 dwelling units shall not be required to exceed the maximum of 10 recreational units.

7.6.3 Payments in Lieu of Dedication

A. General Provisions - When the Planning Board determines (upon the recommendation of the Administrator) that the park, recreation and open space requirements of a subdivision of 11-33 lots can be adequately met by capital facilities constructed or to be constructed on county-owned property or property to be acquired by the county within a reasonable time that is located close enough to such subdivision to reasonably serve its residents, the Planning Board may authorize the subdivider to make a payment to the county in lieu of dedication. The Planning Board may also authorize a combination dedication and partial payment in lieu of dedication when such is determined to be in the best interest of the citizens of the area to be served. Any public dedication is subject to review and acceptance by the Planning Board.

B. Procedure - The subdivider shall include with the application for Master Plan approval, a letter requesting approval to make a payment in lieu of dedication. The letter shall include the proposed per acre value and the basis for the determination of such value. Upon receipt of the Master Plan, the Administrator shall submit a copy thereof with the letter requesting a payment in lieu of dedication to the Planning Board. The Administrator shall submit any recommendations concerning the request to the Technical Review Committee.

C. Amount of Payment - If the County approves a payment in lieu of dedication, the amount of such payment shall be the product of the number of acres to be dedicated as outlined in subsection (B) above, and twice the average fair market value per acre of the land being subdivided at the time of the submission of the Master Plan. The Tax Department shall determine the average fair market value of the land based on the value of the land for property tax purposes, the information submitted by the subdivider and other relevant information.

D. Use of Payments in Lieu of Dedication - All monies received by the county pursuant to this Article shall be used only for the acquisition or development of recreation, park, or open space areas that will benefit the new subdivision residents.

E. Required Payment in Lieu of Dedication - In the event the County finds that a land dedication does not meet the long range plans of the county it shall require payment in lieu of a dedication.

F. Time of Payment - If a payment in lieu of dedication is authorized, such payment shall be made before recording the final plat for the subdivision. If a subdivision is developed in phases, a payment relating to each phase must be made prior to the recording of a final plat for each phase.

7.6.4 Flexibility in Administration Authorized:

A. The requirements set forth in this subsection concerning the amount, size, location and nature of park, recreation and open space areas to be provided in connection with residential developments are established by the County as standards that preemptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted county plans. The County recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Planning Board is authorized to permit minor deviations from these standards whenever it determines that: (i) the objectives underlying these standards

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can be met without strict adherence to them; and (ii) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.

1) Whenever the County authorizes some deviation from the standards set forth in this Article, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

7.7 WASTE WATER SYSTEM REQUIREMENTS (Existing language from Section 6.10.2)

7.7.1 Requirements

A. 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 or

B. Soil suitability analysis has determined that at least 5,000 sq. ft. of the 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. Be served by a Community Sewer System as defined in this ordinance.

D. 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," section of this ordinance.

7.8 WATER/SEWER SYSTEM REQUIREMENTS AND CONNECTIONS (Existing language from Section 6.11)

7.8.1 Requirements

A. All new construction and development as defined in §12 of the Pender County Code, Water and Sewer Ordinance, Utility System Extension and Cost Recovery shall conform to the standards provided.

B. In such instances where §12 regulations are not applicable the following shall apply:

1) Lots ranging from 15,000 sq. ft. and larger may utilize traditional on-site septic and well services
2) In the Planned Development (PD) District and Residential Mixed (RM) District, lots ranging from 12,000 sq. ft. to 14,999 sq. ft. must provide at least one of the following:
   a) Community or Public waste water disposal or,
   b) Community or Public water service.
3) All dimensional lots under 12,000 sq. ft. shall require community or public waste water disposal and water service.

7.9 DRAINAGE FACILITIES AND UTILITY EASEMENTS (Existing language from Section 6.9)

6.14.1 Requirements

A. Drainage Plan That Will Include All Portions of the Development Shall Be Submitted.

B. This plan shall be prepared and sealed by the appropriate licensed professional. The plan and facilities shall provide for a drainage system for these areas that will accommodate the ten-year storm event without flooding or substantial ponding of water in the areas included in the plan. The plan must also accommodate any discharge from properties in upland portions of the drainage basin that flows through the property for the same storm event for the type development for which that property is zoned. The boundary of any drainage area on a portion of the site and/or upland from the site and drainage areas between stormwater discharge points from the site to the recipient perennial stream shall be shown on a map (copy of 7.5 min. USGS Quad or similar map). Any drainage facility receiving stormwater discharge from the development shall have the capacity to carry the anticipated stormwater flow from areas that Discharge through them for the 10 year storm event from the point of discharge at the development to the recipient perennial stream without over flowing their banks. The location, size and/or capacity of all structures included in the drainage system and receiving discharge from the development to the recipient

perennial stream shall be shown on the plan and calculations used in designing the drainage system shall be submitted in a legible format. Where practicable Low Impact Development (LID) techniques that are designed, constructed, and maintained in accordance with the NCDWQ Manual of Stormwater Best Management Practices are encouraged to be used. This plan may be included in the street and drainage plan, stormwater management plan or on the preliminary plat, as long as the design professional certifies that the specific drainage plan submitted complies with these requirements and the information required is shown or submitted as noted.

C. Easements for existing and proposed utilities including existing & proposed drainage facilities shall be placed along the centerline of such facilities. Such easements shall be 20 ft. wide and centered along common property lines, unless natural or topographical features indicate otherwise.

D. Drainage easements along natural drainage ways shall extend at least 10 ft. beyond the top of the bank of the channel (see definition of natural drainage way).

7.10 OFF-STREET PARKING AND LOADING/PARKING REQUIREMENTS (Existing language from Section 6.14)

7.10.1 Minimum

Off-street parking spaces shall be provided for all uses listed below in the amounts specified below. Uses not listed shall be reviewed by the Administrator for a determination of the required spaces. Buildings with multiple uses shall calculate parking based on the square footage of each use in the building.

PUBLIC AND CIVIC USES		
Use Category	Specific Use	Minimum Spaces
Community Services	All community service	1 per 500 SF floor area
	Auditorium	1 per 200 SF floor area for seating in places of assembly, minimum 20 spaces
	Clubs and Lodges	1 per 100 SF floor area
	Museums	1 per 300 SF floor area, minimum 10 spaces
Day Care	All day care	1 per employee + 1 per each attendees
Educational Facilities	all education facilities except as list below	6 per classroom + 1 per 300 SF floor area of administrative office space
	Kindergarten, elementary, middle school	1 per classroom + 1 per 300 SF floor area of administrative office space
	College or University	As determined by the Planning Board
Government Facilities	City, county, state or federal government office	1 per 300 SF floor + 1 per 3 employees
	Correctional facilities, jail, prison	1 per 300 SF office area + 1 per 5 beds
	Emergency services, fire, sheriff or medical station	1 per employee per shift + 1 per facility vehicle
Medical Facilities	All medical facilities , except listed below	1 per 250 SF floor area
	Medical laboratory	1 per 500 SF floor area
	Hospital	1 per 2 beds + 1 per doctor and nurse + 1 per 4 employees

Parks & Open Areas	All parks & open areas except listed below	As determined by the Planning Director in consultation with the Parks & Recreation Planner
	Cemetery, mausoleum columbaria, memorial garden	1 per 5 seats in chapel or assembly area
Passenger Terminals	all passenger terminals	1 per 200 SF waiting area +1 per 2 employees
Places of Worship	All places of worship	1 per 28 SF available seating in the assembly area(s)
Social Service Institutions	All social service institutions, except as listed below	1 per 1,500 SF floor area + 1 per employee/volunteer
Utilities	All utilities, except as listed below	1 per 1,000 SF enclosed floor area
	TV/HDTV/AM/FM broadcast facility	1 per 300 SF enclosed floor area

COMMERCIAL USES		
Use Category	Specific Use	Minimum Spaces
Indoor Recreation	All indoor recreation, except as listed below	1 per 250 SF enclosed floor area
	Adult establishment, bar, nightclub, movie or theater	1 per 100 SF of seating area
Outdoor Recreation	All outdoor recreation, except as listed below	1 per 500 SF of enclosed floor area + 1 per 1,000 SF of outdoor use area
	Campground, summer camp	1 per campsite + 1 per employee
	Circus ground	1 per 600 SF of the area devoted to the circus arcade, concessions, etc.
	Flea market, outdoor	1 per 300 SF vendor area
	Firing range, outdoor such as rifle range, archery, skeet, handgun	Minimum of 5 + 1 per firing position
	Golf course, country club (see "restaurants" for additional parking requirements associated with eating facilities)	4 per hole + 1 per 500 SF floor area
	Stadium or arena, commercial amphitheater, ballfield	1 per 4 seats
Overnight Accommodations	All overnight accommodations, except as listed below	1.25 per room + 1 per 100 SF conference/banquet/restaurant
	Bed & Breakfast establishment	1 per guest room + 2 per owner/manager
	Diet House, emergency shelter	1 per 250 SF floor area
Restaurants	All restaurants, except as listed below	1 per 100 SF

Retail Sales and Service	All retail sales and service, except as listed below	1 per 200 SF floor area for the first 50,000 SF of Gross Leaseable Area and 1 per 250 SF of leaseable area after that
	Animal hospital, kennel, or veterinarian	1 per 250 SF enclosed floor area
	Artist gallery, bulk mailing service, psychic, medium, security service, studio, taxidermist	per 400 SF floor area
	Repair-oriented services such as appliance, bicycle, canvas product, clock, computer, etc.	1 per 500 SF floor area
Self-Service Storage	All Self-service storage	Minimum of 5 per 1 per 100 storage units whichever is greater
Vehicle Sales and Service	All vehicle sales and service, except as listed below	3 per service bay
	Car wash	2 per wash bay
	Vehicle sales, leasing or rental; manufactured housing sales	1 per 500 SF enclosed floor area

OFFICE USES		
Use Category	Specific Use	Minimum Spaces
Office	All office uses, except as listed below	1 per 250 SF floor area
	Conference center, retreat house	1 per 250 SF seating area

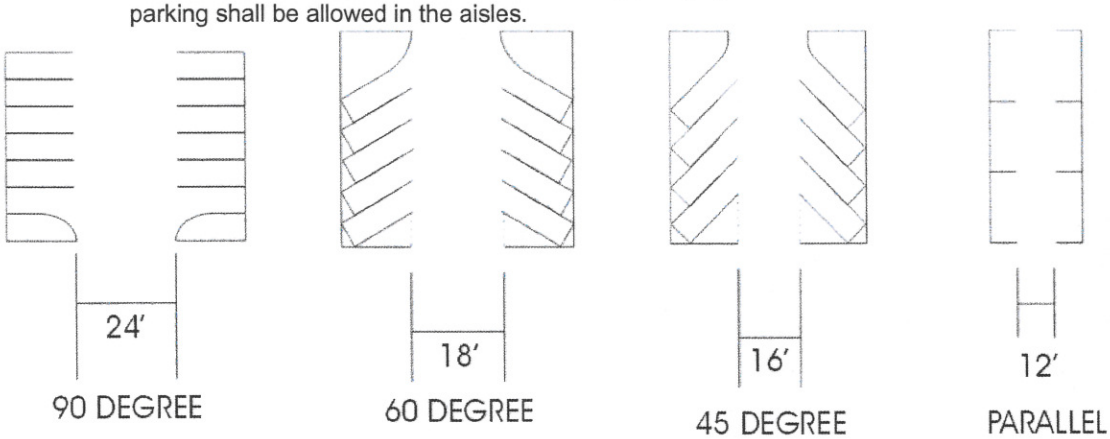
INDUSTRIAL USES		
Use Category	Specific Use	Minimum Spaces
Heavy Industrial	All heavy industrial	1 per 1,000 SF enclosed floor area
	Wrecking, junk or salvage yard	1 + 1 per 10,000 SF of yard area
Light Industrial	All light industrial service	1 per 1,000 SF floor area
Resource Extraction	All resource extraction	1 per 2 employees, minimum 3
Warehouse and Freight Movement	All warehouse and freight movement	1 per 5,000 SF of floor area
Waste-Related Service	All waste-related services	1 per 500 SF enclosed floor area + 1 per 5,000 SF outside storage area
Wholesale Trades	All wholesale trade	1 per 1,000 SF floor area

7.10.2 Parking Space Design Standards

Each required off-street parking space shall open directly onto an aisle or driveway which is designed to provide safe and efficient access to each parking space. Parking shall not be allowed to impede traffic movement on alleys or streets or to impede pedestrian or bicycle activities.

A. Dimensions

1) Standard Spaces - A required off-street parking space shall be at least eight feet, six inches (8'6") in width and 18 feet in length exclusive of any access drives, aisles, or columns; however, for non-residential uses, parking spaces of a reduced size may be permanently designated, by signs, for compact vehicles.
2) Parallel Parking - Parallel parking spaces shall be increased by five feet in length for regular parking.
3) All spaces shall have a minimum vertical clearance of eight feet.
4) Aisles shall not be less than 24 feet wide for 90 degree parking, 18 feet wide for 60 degree parking, 16 feet wide for 45 degree parking and 12 feet wide for parallel parking. The angle shall be measured between the centerline of the parking space and the centerline of the aisle. No parking shall be allowed in the aisles.



5) The maximum grade permitted for any required parking shall not exceed 8%.
6) Parking spaces using geometric standards other than those specified in this Ordinance may be approved if developed and sealed by a registered engineer with expertise in parking facility design subject to a determination by the Administrator that the proposed facility will satisfy off-street parking requirements as adequately as would a facility using standard Ordinance dimensions.

B. Parking design shall include required landscaping standards per Section 7.3.

C. Plan - Parking design for non-residential and multifamily uses shall be approved as part of site plan review.

7.10.3 Surfacing (Existing language from Section 6.15.3, Surfacing)

A. Non-Residential Uses in the RA District

1) All required off-street parking spaces shall be covered with an all-weather surface designed to support anticipated loads. Loose material surfaces shall be contained with a permanent edging. The surface shall be maintained so that traffic may move safely in and out of the parking area. Parking blocks that help designate individual parking spaces and keep vehicles within the surfaced area shall be required in lots with greater than 10 parking spaces.

B. Non-Residential Uses in all other Zoning Districts

1) Required Parking Spaces - All required off-street parking spaces shall be sealed by an appropriate licensed professional and paved in accordance with NCDOT base course and pavement surface standards as prescribed by the "Secondary Road Manual".

C. Parking spaces provided in excess of the minimum required shall be constructed to use low impact design of excess parking facilities. Additional low impact design may be provided, if not otherwise prohibited by other provisions of the UDO, in the following areas:

1) Adjacent to parking lot landscape islands to allow for the percolation of water and the exchange of oxygen for the tree roots.
2) Grass paving or turf block areas may be utilized in low impact areas or infrequent use areas such as churches or the outlying parking areas of malls or other shopping areas.

7.11 OUTDOOR LIGHTING (Existing language from Section 6.15)

7.11.1 Requirements

Outdoor Lighting shall be required only in conjunction of the construction of sidewalks and off-street parking requirements, in which case, they shall be placed at any and all street intersections throughout the development.

7.11.2 Parking Lot Lighting

Parking lot lighting shall be shielded so that it does not cast direct light beyond the property line. Parking lots shall be illuminated during night business hours.

7.12 OUTDOOR DISPLAY AND STORAGE (Existing language from Section 6.16)

7.12.1 Requirements

A. The outdoor storage or processing of products, equipment or raw materials is allowed in the business and industrial districts or in association with business uses allowed in any other zoning district only if the outdoor storage is directly associated with the primary uses of the property.

1) In such cases, the outdoor storage or processing shall be completely screened from the view of road and street rights-of-way and from surrounding properties by a fence, wall or by screening.
2) Such outdoor storage and processing shall not be permitted in any required front yard.
3) The Administrator may require that the storage of hazardous materials or any materials which may contribute to contaminated runoff be fully enclosed. Where such materials are stored outdoors, they shall be contained within an impervious structure designed to contain spillage or contaminated runoff.
4) The display of vehicles for sale by a vehicle dealer or nursery stock by a commercial nursery, along with other products for sale that are normally displayed outdoors, shall be exempt from the above requirements.
5) Such requirements shall not apply to motor vehicle parking and loading areas.

7.13 SOLID WASTE, DUMPSTER, RECYCLING AND TRASH HANDLING (Existing language from Section 6.17)

7.13.1 Must be screened from view of public or private streets or rights of way with the use of any of the following:

A. Solid opaque fence or masonry wall with a minimum height of six (6') feet.
B. Solid evergreen hedge with a minimum maturity height of six (6') feet.

ARTICLE 8 LANDSCAPING AND BUFFERING

8.1 GENERAL

8.1.1 Intent

The placement of landscape plants on a property can serve numerous purposes. One of the most obvious is to enhance the appearance of the property and increase the property's value. Other benefits of plants and vegetative buffers in the home and business property landscape are as follows:

A. Reduce air pollution by absorbing Carbon Dioxide and releasing Oxygen.

B. Reduce erosion by dispersing and absorbing rainfall.

C. Reduce stream pollution by stabilizing soil and slowing, dispersing and absorbing stormwater runoff.

D. Reduce stormwater runoff and the potential for flooding.

E. As properties provide trees, plants and other landscape vegetation, not only is the appearance of individual properties improved, but community appearance is enhanced. This provides a substantial value to the community and other properties in the community.

F. Buffer and Landscape trees and other plants also help reduce noise from auto traffic, glare from auto and other lights and help collect & reduce litter from reaching adjacent properties.

8.1.2 Applicability

The landscaping and buffering requirements found in this Article shall apply to all development within Pender County with the exception of bona fide farming activities and residential development of one housing type in the Residential Performance Districts. Landscaping and buffer requirements shall apply in all business, planned development, industrial, and non-residential uses in other zoning districts when:

A. A new principal structure is built, or

B. An existing principal structure is expanded sufficiently to increase its interior square footage by fifty percent (50%) or more, in any one or more expansions or

C. A change in use from residential related to office, service, commercial or industrial, or from office, service or commercial to industrial or

D. In any residential development with two or more types of housing development.

8.1.3 Tree Survey Required

A. Significant Tree Survey

1) A significant tree survey shall be required for any commercial or industrial zoned property and all mixed use districts. The significant tree survey shall show the general location, species and size of any significant tree. However, a significant tree survey shall not be required for land in designated Special Flood Hazard Areas (unless filled or developed in accordance with an approved permit), jurisdictional and coastal wetlands and wetland buffers, designated Areas of Environmental Concern, and stream buffers.

2) For purposes of this Ordinance, a significant tree shall be defined as follows:

   a) An American holly with a trunk caliper measurement of 6" or greater measured at 4.5 feet above ground;

   b) A flowering dogwood with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground;

   c) A water oak with a trunk caliper measurement of 8" or greater measured at 4.5 feet above ground;

   d) A live oak with a trunk caliper measurement of 8" or greater measured at 4.5 feet above ground; and

   e) Any tree species included in the planting table, except a "loblolly pine" (see Appendix C) with a trunk caliper measurement of 12" or greater measured at 4.5 feet above ground.

3) For development plans where specific building locations are not shown, a more generalized survey of vegetation may be provided in lieu of a significant tree survey. This survey shall describe existing forest stands, indicating the average species and size of trees on the tract.

4) Where any significant tree shown on the significant tree survey is proposed to be removed such removal shall be mitigated by the planting on site of two (2) trees of the same species with a minimum caliper of 2" or greater.

G. The act of changing advertising copy of messages on any sign designated for the use of replaceable copy such as a ready board or product price sign or on sign having its own changing copy capacity such as a time-and-temperature sign.

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.

I. State required signs, i.e., inspections at service stations etc.

J. Off-Site real estate signs not exceeding six (6) square feet

9.5 SIGNS NOT REQUIRING ZONING APPROVAL

9.5.1 The following signs may be erected, hung, or placed without zoning approval from the Administrator, but shall not be illuminated unless otherwise specified.

A. Temporary Real Estate Sign

1) One (1) on-premise temporary real estate sign not exceeding ten (10) square feet in area shall be allowed per residential lot. One (1) on-premise temporary real estate sign not exceeding thirty-two (32) square feet in area shall be allowed, for commercial or industrial property, and/or for tracts of land five (5) acres or more in area. Where the property on which said sign is to be placed faces more than one (1) road, one (1) such sign shall be allowed on each road frontage.

B. Temporary Construction Sign

1) One (1) construction sign may be erected on a site during the period of construction or reconstruction of a building or other similar project.

C. Other Temporary Signs

1) One sign, including portable signs and banners, for promotional purposes by a business may be displayed on the premises for a period not to exceed ten (10) calendar days during each month, with a maximum total size of sixty (60) square feet.

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 ten (10) calendar days during each month. The maximum allowable square footage shall be sixty (60) square feet.

i) Shopping centers or multi-tenant with more than 5 units or 400' or more of road frontage may utilize two (2) banners for ten (10) days per month.

2) Pennants, ribbons, posters, streamers, strings of light bulbs, or other similar devices may be displayed for a period of not more than forty-five (45) days on the occasion of the opening of a new business.

3) Directional signs advertising a public event and located off premises may be displayed on private property not more than one (1) week in advance of the event and not more than two (2) days after the completion of the event. No such sign shall exceed six (6) square feet in area.

4) Political campaign signs may be posted on private property only after the official campaign period has begun and must be removed within 30 days after primary election for the loser, and 30 days after the general election for everyone. Such signs shall not exceed thirty-two (32) square feet in area.

9.5.2 Direction, Information or Public Service Signs

A. Direction or information signs of public or quasi-public nature will not need zoning approval if the sign does not exceed thirty-two (32) square feet in area. Such signs shall only be used for the purpose of stating or calling attention to:

1) The name or location of the county, hospital, community center, public or private school, church, synagogue, or other place of worship, may be illuminated;

2) The name and place of meeting of an official body, may be illuminated;

3) Zoning and subdivision jurisdiction; and

4) An event of public interest such as public hearing, election, rezoning announcement, church and public meeting, local or county fair, and other similar community activities and campaigns.

9.5.3 Setback Requirements

Signs which do not require zoning approval shall be set back at least five (5) feet from any public right-of-way or property line whichever is greater.

3) Location: The sign shall not be closer than twenty (20) feet to any property line or road right-of-way and shall not project higher than twenty five (25') feet above ground level.

B. When a single frontage development has 400 or more feet of road frontage, the following standards shall apply for increased square footage.

1) For each additional foot of road frontage exceeding 400', the square footage of the Pylon/free standing sign may be increased by 0.25.
2) The total allowable square footage based on road frontage shall not exceed 350 sq. ft. or 1000' of lineal road frontage and may be divided between two signs following Article 9.9.1.A.3.

9.9.2 Wall Signs

In addition to the pylon/free standing sign such developments may have one wall sign, for each tenant. Such wall sign shall be in accord with Subsection 9.7.1.C of this Article.

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.

9.10 OFF PREMISE DIRECTIONAL REAL ESTATE SIGNS

Residential subdivisions and planned developments containing more than fifteen (15) lots or units shall be permitted to erect one (1) temporary directional off-premise real estate sign directing the public to the subdivision or planned development where property is for sale, rent or lease. The applicant must apply for zoning approval and building permits for each sign. Once issued, the approval is good for a period not to exceed two (2) years. Upon expiration, the approval may be renewed for a period not to exceed two (2) years, provided the applicant reapplies within ten (10) days after expiration. If the applicant/owner fails to remove the sign or reapply within ten (10) days of expiration, the county shall take appropriate violation measures to establish compliance.

Each sign must meet the following criteria:

1. Maximum sign area is thirty-two (32) square feet;
2. Maximum sign height is ten (10') feet;
3. The maximum number of sign faces is one (1) per side of the sign, not to exceed two (2) sign faces. If the sign is located on a property where two public roads intersect, the sign may be constructed so that one sign face faces each road frontage;
4. No temporary directional off-premise real estate sign shall be placed within three hundred (300') feet of an existing temporary off-premise real estate sign measured from the same side of the right of way;
5. The sign shall not be located within a sight triangle or impede the vision of motorist in any manner;
6. The sign shall not be internally or externally illuminated;
7. The sign and supporting posts shall be constructed of treated lumber or vinyl, or other materials not prone to rot or decay. The supporting post shall have a maximum dimension of 4" x 4" and be trimmed out at the top and capped with a decorative post cap.
8. The sign shall not be located on any property that is currently zoned within a Special Purpose District (Environmental Conservation)
9. The sign shall be maintained in substantially similar condition as to when it was originally erected. Maintenance shall include periodic painting, replacement of defective or missing parts, cleaning, and replacement of any sign face that exhibits damage or deterioration. Refer to Article 9.14.

9.11 OUTDOOR ADVERTISING SIGNS ALLOWED ONLY ALONG INTERSTATE 40

No outdoor advertising sign shall be located any closer than fifteen hundred (1,500) feet off the state right-of-way on Interstate-40. The maximum height of sign on I-40 shall be thirty (30) feet. The maximum size of any one sign shall be two hundred (200) square feet with a maximum length of forty (40) feet. No two (2) outdoor advertising sign structures shall be spaced less than fifteen hundred (1500) feet apart.

> ***Commentary:*** *For example, the failure to rent one (1) apartment in a nonconforming apartment building or one (1) space in a nonconforming mobile home park for one hundred-eighty (180) days shall not result in the loss of the right to rent that apartment building or mobile home park as a whole, if continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a mobile home is used as a nonconforming use on residential lot where a conforming residential structure also is located, removal of that mobile home for one hundred-eighty (180) days terminates the right to replace it.*

A. standards for the subject district, the change is to the degree of activity rather than changes in kind, and no violations of other sections of this Ordinance occur.

10.1.2 Loss of Nonconforming Use Status

1) Discontinuance
2) When a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, or greater than one hundred eighty (180) days with good cause shown, the property involved may thereafter be used only for conforming purposes.
3) The resumption of a nonconforming use shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.
4) For purposes of determining whether a right to continue a nonconforming use is lost, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole.

B. Damage or Destruction

1) A nonconforming use located within a structure which has been damaged by fire or other natural causes may retain nonconforming status if the use is reestablished within one year.

10.2 NONCONFORMING STRUCTURES

10.2.1 Definition

A nonconforming structure is any aspect of a development—other than a nonconforming lot, nonconforming use or nonconforming sign—that was lawfully established, in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Ordinance. Common nonconformities involve building height, size, or minimum floor space or the relationship between an existing building and the required yard setbacks.

10.2.2 Continuation

Nonconforming structures may remain, subject to the standards of this section.

10.2.3 Enlargement or Modification

A. A nonconforming structure may be modified or altered provided such alterations do not materially increase the degree of nonconformity.

B. ~~Any enlargement or modification of a nonconforming structure shall conform to the dimensional requirements of the zoning district unless an Administrative Adjustment is granted by the Administrator.~~

C. A nonconforming structure may not be moved or relocated unless it is made to comply with the dimensional requirements of the district in which it is relocated.

D. Physical alteration of structures or the placement of new structures on open land are unlawful if they result in greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements.

E. Notwithstanding paragraph D, any structure used for single family residential purposes and maintained as a nonconforming use or structure may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities with respect to yard size and setback requirements. This paragraph is subject to the limitations stated in subsection 10.3.5.

F. A structure which is nonconforming as to off-street parking may be remodeled or altered in a manner

> ***Commentary:*** *In particular, a mobile home may be replaced with a larger mobile home, and a "singlewide" mobile home may be replaced with a "doublewide".*

Definitions to be added to Appendix A:

COTTAGE OCCUPATION: A use conducted for the generation of revenue in an accessory structure located on the same lot or tract as a dwelling. The use must: be clearly incidental and secondary to the use of the property for residential purposes; not change the character of the structure or area; or have any exterior evidence of the occupation. Cottage Occupations are intended to be limited to low intensity uses that produce or repair a product, but can be operated in such a way that they do not adversely affect adjacent properties.

CROSS ACCESS: A service drive between two or more contiguous sites providing direct access to properties and limiting travel on the public street system.

ENVIRONMENTAL FEATURES: Land features that are classified as natural or environmentally sensitive areas including Special Flood Hazard Areas (SFHA), lakes, ponds, wetlands, natural stormwater retention areas, steep slopes, woodlands, stream buffers, water ways, riparian areas, and all other natural features.

LOT WIDTH: The horizontal distance between side lot lines measured at the front yard setback line.

PRIVATE CEMETERY: A place used for the interment of human remains, including a burial park for earth interments, a vault or crypt interments, a mausoleum, a columbarium for cinerary interments, or a combination thereof, and not subject to the provisions of the *North Carolina Cemetery Act*.

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APPENDIX D TYPICAL FORMS AND SURVEYOR NOTES

PERFORMANCE GUARANTEE REQUIREMENTS

Guarantee Required Prior to Signing Final Plat
Prior to signing the Final Plat for recordation by the Administrator, items A. or B. in this Article must be complete. Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall if requested by Pender County, pay all or any portion of the bond or escrow fund to the County up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, Pender County, in its discretion, may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements. Pender County UDO 91 Article 6 – Development Standards and Subdivision Design.

- All requirements of this ordinance are complete including the following:
  - All improvements required by this Ordinance and required as a condition of approval, must be constructed and/or installed and
  - All improvements required by this Ordinance and required as a condition of approval must be certified by a licensed surveyor and/or engineer that their construction and installation is complete in accord with the standards of this ordinance and
  - All public streets and related drainage are certified to be complete and in accord with NCDOT requirements by the NCDOT District Engineer.
  - A Defects Guarantee for the required improvements has been submitted and approved in accord with this ordinance.
- Documents Guaranteeing the completion of all required improvements have been submitted and approved including the following:
  - A Performance Guarantee Agreement for Improvements in favor of Pender County on an approved format in this Ordinance or in a format approved by the Pender County Attorney shall be submitted and approved.
  - An Irrevocable Letter of Credit, Performance Bond or Escrow Agreement in favor of Pender County or in a format approved by the Pender County Attorney shall be submitted and approved to cover the cost of the incomplete and uncertified improvements. The amount of the Guarantee will be at least equal to the cost of construction of the improvements as shown on a Construction Cost Estimate prepared, signed and sealed by a licensed engineer.
  - Release of Guarantee Security
  - The County may release a portion of any security posted as the improvements are completed once said improvements are inspected and approved and that their construction and installation is complete in accordance with the standards of this ordinance.

Type Guarantee Required
- The Guarantee shall provide for 125% of the estimated cost of completion in one of the following forms:
  - Filing an irrevocable letter of credit from a federally insured lending institution specifying the limit of credit dedicated to the subject subdivision which will be extended to the County upon request.
  - Depositing or placing in escrow a certified check or cash, conditioned upon satisfactory completion of the final plat requirements and improvements.
  - Filing a performance or surety bond from a licensed surety or bonding company assuring completion of the improvements.

Release of Guarantee Requirements
- 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:
- 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,
- Certification from the District Engineer that public streets have been constructed to NCDOT Secondary Road Standards or,

- 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
- Certification of completion and performance of the Drainage System by a Registered Engineer and,
- 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.
- 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.
- 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 Administrator's sole discretion.

Required Improvements

- Monuments and Markers
  - Control monuments shall be set at the points of curvature (—PC|| and —PT||) or at the —PI|| of all street centerline curves (one monument per curve if installed at the PI and two if installed at the points of curvature). However no more than two street centerline curve control monuments will be required within a 1000 ft. lineal section of any street. A standard steel 60 penny nail or a standard —PK|| or —MAG|| nail shall be placed at these points where control monuments are not located. —PK|| and —MAG|| nails shall be at least 2.5 inches long.
  - Centerline control monuments will not be required on cul-de-sacs 500 ft. or less in length when —nails|| specified above are located at required monument control points.
  - A control monument shall be placed at all street centerline intersections.
  - Monuments set in the street pavement shall have monument access boxes set on top of a brick, block, other masonry or rock footing.
  - When any portion of the development is in a Special Flood Hazard Area, as defined in this Ordinance, as amended, and set out in the FEMA Flood Insurance Rate Maps (FIRM), one (1) permanent monument in each subdivision is required to have its elevation recorded on the final plat.
  - A steel or iron pipe or the equivalent of not less than one-half (1/2) inch in diameter and at least thirty (30) inches in length, where possible, shall be set at all property and lot corners, except those located by monuments. A property marker shall also be set in street right-of- way lines at the point of curvature and point of tangency.
  - Control Corners as described and required in NCGS 39-32.1-4, shall be installed.

Grantor/Grantee Certificate

The following statement shall appear on the plan and be signed by the Grantor(s) and Grantee(s) prior to approval:

The Grantor(s) and Grantee(s) certify that the Grantee(s) is within three (3) degrees of collateral kinship to the Grantor(s), and that the purpose of this waiver is not to circumvent the provisions of the Pender County Unified Development Ordinance, and that none of the lots shall be conveyed to non-family members for a period of not less than five (5) years.

_____ _____

Grantor *Grantee*

Commentary: "Siblings are related to each other in the second degree and uncle and niece are related to each other in the third degree"

Certificate of Disclosure: Private Roads

I (we) the developers of _____ subdivision located in the unincorporated area of Pender County understand that the roads in said subdivision are designated private. I understand that ownership and maintenance of the roads will be the responsibility of the developer until such time that the developer designates the responsibility to the property owners' association. Responsibilities must be accepted by the homeowners association as specified in the homeowner covenants for said subdivision. The private roads in said subdivision are to be constructed in accordance with this UDO and all applicable County Codes which includes the design, installation, inspection, and approval by a licensed Professional Engineer (PE) recognized in the State of North Carolina prior to final plat approval for all or a portion of the subdivision. If all or a portion of the road infrastructure system within the subdivision is bonded through a surety, performance bond, or cash escrow, no bond shall be released until all road construction improvements are complete and certified by the Professional Engineer.

It shall be disclosed to the prospective buyer of a lot or lots within the subdivision that road maintenance shall run through the property owners association in perpetuity after acceptance from the developer until such time that the roads are re-platted as publically designated roads and taken over for maintenance through the North Carolina Department of Transportation (NCDOT).

Developer's Name _____ Date _____

DEVELOPMENT AGREEMENTS

As authorized by this Ordinance, Development Agreements must comply with all state regulations in NCGS §153A-349.1 et. seq.

REQUIRED CERTIFICATES (PRELIMINARY PLAT)

Certification of Submission
A copy of this plat has been submitted. Approval is subject to review; this does not constitute an approval.

Pender County Utilities Date
Pender County Environmental Health Date
Pender County Addressing Coordinator Date

Certificate of Preliminary Plat Approval
Preliminary Plat Approved by Pender County for a period of two (2) years subject to the Pender County Unified Development Ordinance requirements and conditions of approval.
Planning Staff: _____ Date: _____

REQUIRED CERTIFICATES (FINAL PLAT)

Certificate of Ownership, Dedication and Jurisdiction

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described here on and that I (we) hereby adopt this plan of subdivision with my (our) own free consent and dedicate all streets, alleys, walks, parks and other areas to public or private use as noted. Further, I (we) certify that the land as shown here on is located within the subdivision jurisdiction of Pender County.

Owner: _____ Date: _____

Owner: _____ Date: _____

Surveyor Certificate I

I, _____, certify that this plat was (drawn by me or drawn under my supervision) from (an actual survey made by me or made under my supervision) (deed description in Book _____, Page_____,) or (other); that the boundaries not surveyed are clearly indicated as drawn from the information found in Book___, Page___; that the ratio of precision as calculated is 1:____; that the plat was prepared in accordance with G.S.47-30 as amended.

Witness my original signature, registration number and seal this day of _____A.D. _____.

Signature: _____ (Seal)

Registration Number: _____

Surveyor Certificate II

One of the following must be stated:

1) This plat is of a survey that creates a subdivision of land within the subdivision area of a county or municipality that has an ordinance that regulates parcels of land
2) This plat is a survey that is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land and is therefore not subject to regulation by a subdivision ordinance.
3) This plat is of an existing parcel or parcels of land and does not create a new street or change in existing streets as defined in the Subdivision Ordinance and is exempt from the definition of subdivision contained in said Subdivision Ordinance.
4) This plat is a survey of an existing building or other structure, or a natural feature and is therefore not subject to regulation by a Subdivision Ordinance.
5) This plat and survey is a control survey and is therefore not subject to regulation by the Pender County Subdivision Ordinance.
6) This plat is a survey of another category, such as the recombination of existing parcels, a court-ordered survey or other exception to the definition of subdivision and is therefore not subject to regulation by a Subdivision Ordinance.

Witness my original signature, registration number and seal this day of _____A.D. _____.

Signature: _____ (Seal)

Registration Number: _____

Note: Surveyor Certificates II & III may be combined into one Certificate.

Surveyor Certificate III

The subdivision shown on this plat (does/does not) contain Special Flood Hazard Areas and (is/is not) located in a Floodway as delineated by the Federal Emergency Management Agency.

The subdivision shown on this plat (does/does not) contain Areas of Environmental Concern as delineated by the North Carolina Coastal Resources Commission.

Witness my original signature, registration number and seal this day of _____A.D. _____.

Signature: _____ (Seal)

Registration Number: _____

Parcel Identifier Certificate, Example
Parcel Identifiers have been issued for all parcels shown on this plat.

Tax Supervisor: _____ Date: _____

Certificate of Registration by Register of Deeds
Pender County, North Carolina
Filed for registration on the ____ day of _____ 20___ at _____a.m./p.m. and duly recorded in book _____ at page _____, slide_____.

Register of Deeds: _____

Private Road Certification
I (we) hereby certify that all private roads as depicted on subdivision plat _____
Have been designed, installed, inspected, and approved in accordance with Article 6 of the Pender County Unified Development Ordinance and all applicable Pender County Codes prior to final plat approval for all or a portion of the subdivision.

By certifying the construction of these roads as private, there are no guarantees or assurances of acceptance of said roads by the North Carolina Department of Transportation.

Certified Professional Engineer _____ Date _____
Seal _____