Pender County
Planning and Community Development

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MINUTES

Pender County Planning Board Meeting
July 1, 2014 7:00 p.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Williams called the meeting to order at 7:05 pm.

Roll Call: Chairman Williams
Pender County Planning Board Members:
Williams: X McClammy: X Baker: X Boney: _ Edens: X Marshburn: X Nalee: X

1. **Adoption of the Agenda:** Vice-Chairman McClammy made the motion to adopt the agenda; seconded by Board member Baker. The vote was unanimous.

2. **Adoption of the Minutes: (June 3, 2014)** Board member Nalee made the motion to adopt the minutes; seconded by Vice-Chairman McClammy. The vote was unanimous.

3. **Public Comment:** Chairman Williams asked if there were any signups for public comment; due to no signups, Chairman Williams closed the floor to public comments and opened the floor for the public hearings.

(Public Hearings Open)

4. **Zoning Map Amendment:**
Pender County, applicant, on behalf of Melanie G. Herring, Miranda Rodriguez, and Keith Tatro, owners, requested approval of a Zoning Map Amendment for a general use rezoning of four (4) tracts totaling 15.69 acres from RA, Rural Agricultural, to the GB, General Business District. The subject properties are located on the northwest corner of the intersection of Camp Kirkwood Road (SR 1318) and US HWY 117, and may be identified by Pender County PIN(s): 3322-45-8223-0000 (1.00 acre), 3322-44-8909-0000 (5.57 acres), 3322-44-7653-0000 (7.93 acres), and 3322-44-4210-0000 (1.19 acres). Ashley Frank, Senior Planner, began presenting agenda item 4; Board member Baker requested to interrupt and asked if there was an original application signed by the property owners; Ms. Frank answered that a General Use Rezoning does not require the signature of property owners, under State Statues. Board member Baker asked in that case the application is just left blank; Ms. Frank responded that the County was the applicant that notifications were mailed to the individual property owners; Board member Baker asked if there were any responses from the property owners confirming that they received the notifications; Ms. Frank answered the only response staff received was from the gentleman that brought the current zoning to staff's attention. Board member Baker asked if there was any record of the property owners being aware of the rezoning request, other than the notifications; Ms. Frank answered no, that none of the mailings were returned. Board member Baker stated that he would assume that there were no property owners in the audience; Director Breuer commented that there were signups to speak and that all notifications were sent according to the General Statue. Ashley Frank, Senior Planner, continued

presenting and giving background information for agenda item 4. Chairman Williams asked if the original zone change like a typo; Ms. Frank answered affirmative that it was inadvertently assigned the current zoning when the Zoning Map was being redone; that it was never brought to staff's attention and may not have ever if one of the property owners would not have come in seeking information about his property. Vice-Chairman McClammy asked that the request was a technical correction, did the property owners agree with the request; Ms. Frank replied that there have been no comments but, there were signups for the public hearing and as far as she was aware they had no issues with the request. Board member Baker asked if the property owners were notified of the incorrect zoning; Ms. Frank answered no because it was a Pender County Comprehensive Rezoning and staff was not required to send notifications and explained the NC Statues requirements. Board member Baker asked if with the current system no responses from property owners were considered an approval; Director Breuer answered, no that staff were not insinuating that the lack of responses indicated the approval of property owners. Chairman Williams asked to hear from the signups. Robert Murray, 306 Croomsbridge Rd. Burgaw, asked if the properties would be rezoned to business; Chairman Williams explained that the current zoning is Rural Agricultural which does allow some business uses, the B2 zone which the properties previously were allowed for a multiple group of uses, so if request is approved it will allow for multiple business uses. Mr. Murray asked if the type of business would have to be stated; Chairman Williams answered no as long as it was covered in the UDO; Ms. Frank provided Mr. Murray with the General Business Zone definition. Attorney Thurman added that any business use permitted would be allowed. Karen Berger, 6281 US HWY 117 N., Burgaw, stated that she and the neighborhood was against the rezoning request, they understood that it was a mistake, but was it really; and asked why couldn't the one property owner apply for a rezoning for his property only, the mistake was a blessing for the neighborhood, and pointed out that none of the property owners were present, only adjacent property owners. Ms. Berger reviewed some B2 zone requirements, one being located on a major thoroughfare, which she didn't believe a two lane road met that requirement; and there would need to be more services available in the area such as water/sewer before business are allowed. Ashley Frank stated for clarification that there was water/sewer available. Chairman Williams stated for clarification that US HWY 117 was considered a major thoroughfare. Henry Haynes, adjacent property owner, stated that he was opposed to the rezoning request, because the intersection was dangerous and did not need any more businesses. Chairman Williams closed the floor to public comment and opened the floor for the Board's discussion. Board member Edens asked for clarification on what the original zoning was for the properties; Ms. Frank replied that according to Pender County Zoning in 1988 it was zoned RA, Rural Agricultural; in 1999 the property owner petitioned the Pender County Board of Commissioners to rezone the four tracts to the B2 district and was approved by the Commissioners; Ms. Frank stated that the properties remained B2 until 2009 when staff corrected the Flood Hazard overlay and the properties zoning was mistakenly changed. Board member Nalee commented that anyone who would have bought the tracts from the original property owner would have known that the properties were zoned B2; Ms. Frank answered yes. Vice-Chairman McClammy asked that since the property owners are not incurring the cost of the application, could the matter be continued until contact is made with the property owners letting them know the importance of them appearing before the Board to express their interest in the rezoning request. Director Breuer commented that the Board could certainly table the request until the next meeting and staff would again reach out to the property owners. Board member Baker commented that the request would be "cleaner" if it was in writing from the three property owners that they agreed with the request rezoning and suggested that the case be tabled. Board member Edens asked if Mr. Rodriquez was the driver in the request; Director Breuer answered yes; Board member Edens commented, in that case he is clearly in favor of the request to rezone. Attorney Thurman advise the Board that they could if they wished move forward and act on Mr. Rodriquez's property since he clearly wanted the rezoning and table acting on the other properties until a response was received from those owners.

Vice-Chairman McClammy made a motion to approve the Zoning Map Amendment proposal from Rural Agricultural to General Business for the property owned by Miranda Rodriquez, identified on the provided maps as properties 2 and 3 and table action on the property owned by Melanie Herring and Keith Tatro, identified on the provided maps as properties 1 and 4. Chairman Williams asked if there was a second; Board member Baker asked would the action lead into "Spot Zoning", Ms. Frank stated that the acreage requirement was met, so therefore no. Chairman Williams commented that Mr. Rodriquez's tract did, but the other two did not meet the acreage requirement; Ms. Frank answered that if the Board of Commissioners adopted the General Business district for Mr. Rodriquez's property, the two remaining tracts would be contiguous to the General Business district, so therefore they become one whole district. The motion was seconded by Board member Baker. Chairman Williams restated the motion and asked if there were no other questions he would entertain a vote. Board member Baker commented that he hoped when the other property owners became involved that there would be a document showing approval or disapproval of the request; Director Breuer stated that staff would wait until the Pender County Board of Commissioners provided a disposition on the case, then they would reach out to any and all affected property owners; Director Breuer reminded the audience that the Planning Board provides a recommendation to the Pender County Board of Commissioners and on July 7, 2014, the case would be heard by the Commissioners, at that time a final decision would be made. Board member Baker commented that he still believed having something in writing and signed was better than word of mouth; Board member Edens commented that it was not required by the NC Statues. Chairman Williams stated that there was a motion and a second and he would like to hear the vote. The vote was 3 in favor and 3 opposed. Chairman Williams asked where the Board stood with a tied vote; Attorney Thurman answered that since the Board was a recommendation Board the vote would be presented to the Commissioners as is. Board member Edens made a motion to approve the Zoning Map Amendment as presented seeing that all the proper notifications were made; the motion died due to the lack of a second. Chairman Williams stated that the case would move forward to be heard by the Commissioners with a recommendation of 3 in favor and 3 opposed. Board member Baker asked if the discussion the Planning Board members had explaining the vote be provided with the recommendation to the Commissioners; Director Breuer replied that staff's process would be to amend the staff report to reflect the Planning Board's recommendation and any pertinent information, that the minutes of the Planning Board meeting are not public until they are adopted by the Board at the following meeting, if the Board wished to change that process then staff would need that direction and the process would change to where case would not go to the Board of Commissioners until the Planning Board had adopted their minutes, Board member Baker commented that was a separate matter, but he believed that when a case had an outcome such as this one the Board of Commissioners needed to know the details. Attorney Thurman advised Board member Baker that the Board of Commissioners depend on Director Breuer and he to provide any needed details on matters that took place during the Planning Board meeting, but if any of the Board members wished they could send the Commissioners an email explaining their view on the case or send it to Director Breuer and staff would include it in their case packet. Chairman Williams closed the public hearing and requested to move forward with the next agenda item.

5. **Master Development Plan:**
OPV Development, LLC, applicant and owner, requested a revision to the previously approved Master Development Plan for a 2-phased Mixed Use Subdivision; specifically reducing the previously established setbacks for Phase 2. The proposed project is located on the north side of Country Club Drive (SR 1565) approximately one (1) mile from the intersection of US HWY 17 and Country Club Drive; north of Captain Beam Boulevard and west of Emerald Ridge Drive in Hampstead. The property is zoned PD, Planned Development Zoning District and may be identified by Pender County PIN(s) 4203-14-3306-0000; 4203-05-8711-0000. Planner O'Hare presented and gave background information for agenda item 5. Planner O'Hare stated that staff recommended approval, requested that the Preliminary Plat public hearing be waived, and the four revisions were 1.) Name change from Olde Point Village to The Villages at Olde Point due to the concerns of addressing and

emergency management. 2.) Setback reduction for Phase II, front reduced from 20′ to 15′, Side from 8′ to 5′, (or "0 lot lines"/10′ minimum between structures), Rear from 15′ to 10′. 3.) Clarification of phasing for development, the number of lots for Phase II has decreased and Phase I increased. 4.) Roadway shifted west ten feet for Phase II. Chairman Williams stated that if there were no questions for staff at this time, the Board would hear from the applicant. Mark Walton, Project Engineer, stated that the requested changes were due to a new builder, the previous lots would be to small, so the request to change the lot size were made to accommodate the product the builder wants to build. Board member Edens asked if the request was for a 0′ lot line or 10′ between structures; Mr. Walton answered that the request was for either, that the applicant didn't have a preference. Director Breuer commented that the Board could approve both if they inclined to do so. Chairman Williams asked if there were two less lots from the original presented plan and an increase in lot size for Phase II; Mr. Walton answered yes. Chairman Williams stated that if there were no further questions he would entertain a motion. Board member Edens asked if there were any signups; Attorney Thurman answered that Mr. Trask had signed up if he wished to speak; Chairman Williams asked Mr. Trask to come forward if he wished to speak. Raiford Trask, Developer, commented that the reduced setbacks in Phase II were against wetland and not the structure and that the requested side setbacks were within the code requirements. The Board requested that staff explain the difference between a 0′ lot line and a 10′ minimum between structures; Planner O'Hare presented the definition of the setbacks to the Board. Board held a brief discussion regarding the given definitions; Mr. Walton commented that the applicant would prefer to have the 10′ separation setback.

Board member Nalee made a motion to approve the Master Development Plan as presented with the approval of the name change, setback reductions including the 10′ minimum between structures, the relocation of the road in Phase II and the lot changes presented for Phase I and Phase II; seconded by Board member Edens. The vote was unanimous.

6. Master Development Plan:

Pender Farm Development, LLC, and Pender Farm Commercial, LLC, applicants, on behalf of Pender 1164, LLC, owner, requested approval of a 5 phase Master Development Plan known as Blake Farm, consisting of 2,998 residential units and 250,000 sq. ft. of non-residential space. The applicant also requested Preliminary Plat approval for Phase 1 (SF1) consisting of 278 single-family residential units and associated infrastructure. The property is located 1/8 mile north of Sidbury Road (SR 1572) and west of US HWY 17 near Scott's Hill and contains approximately ±1344.5 acres zoned PD, Planned Development District. The properties may be identified as Pender County PIN(s) 3271-04-4167-0000; 3271-25-1909-0000; 3262-72-5914-0000; 3262-54-5164-0000. Director Breuer presented and gave background information for agenda item 6. Director Breuer stated that the proposal is being submitted for a disposition from the Planning Board, that there are some outstanding detail items that have been requested to provide the detail at later submittals; consideration should be taken on requiring a Development Agreement as a condition to the approval of the Master Development Plan and such an agreement should focus on timing of public infrastructure including school resources, vesting of development ordinances applicable to the project, and expectations from the developer and the County; staff recommends approval of the request as well as recommending approval of SF-1. Chairman Williams stated that if there were no questions from the Board he would open the floor to the applicant and any other signups. Raiford Trask, Developer, gave background on the project, stated that he has enjoyed working with the Planning Staff; Mr. Trask introduced Mr. Richard Collier, Mckim & Creed, to present a presentation of the project to the Board. Mr. Collier gave a very detailed presentation to the Board that described the projects location, road network, amenities, and home types. The entire presentation is on file in the Planning Department. Vice-Chairman McClammy asked that the applicant had requested the public hearing for the approval of SF-1 be waived could the applicant explain the pros and cons of doing that; Mr. Collier answered that during the present hearing the proposed lots, road network , storm water requirements, and all other requirements of a SF -1 approval have already been

presented and the same plan would be presented if another public hearing was required; so the pro would be the developer would be allowed to move forward from the present hearing with a full design and the ability to move forward with the process. Vice-Chairman McClammy asked Mr. Collier if he thought the newspaper article and the required public hearing notices were enough to inform the majority of surrounding property owners of what was taking place; Mr. Collier answered yes that no one was trying to bypass any requirements, the main purpose was due to the time it would consume by bringing the same plan before the Board in two months; that if they decided to change the plan in a way such as lot sizes they would have to present a new plan and hold a new public hearing. Director Breuer explained that if the Board was so inclined to approve the Master Development Plan and the SF-1, no other development could be done prior to the applicant coming back before the Board and presenting future phases. Chairman Williams asked if the Board approved SF-1 would the condition that a Development Agreement has to be in place, be required; Director Breuer answered that it would be entirely up to the Board, but depending on the Board's comfort level, he felt the Board could move forward with approving the SF-1 at this time and requiring a Development Agreement before future development. Attorney Thurman stated that a con would be that once the Developer starts moving ahead with development they are less incentivized to reach a Development Agreement, that it has happened in the past, not saying that it is the intent of the Developer to do that just making the Board aware of the cons. Mr. Collier commented that it was not their wish to tie everyone's hands up over a development agreement, however they were not in opposition of one because they are very good document to set the rules for everyone. Mr. Trask stated that he felt the main thing was to stay focused on approving the Master Plan and the SF-1 and if that approval is conditioned on a Development Agreement then they would come back to and would be incentivized to have one done. Board members had a brief discussion on waving the SF-1 public hearing. Chairman Williams asked to hear from anyone else who wished to speak. Carol King, 10565 US Hwy 17, stated that she was an adjoining property owner and had a lot of questions about how this massive development may affect her that maybe tonight wasn't the time to have all of her questions answered, but she would like to request a meeting with Mr. Trask or his team where they could get with other property owners and have their questions answered; Mr. Trask commented that he would be happy to meet and answer the property owners' questions; Director Breuer commented that staff could also help answer any questions and plan a meeting. Vice-Chairman McClammy asked Mr. Trask if he would be willing to hold the meeting on or before July 15, 2014; Mr. Trask commented that he would be willing to meet within the next thirty days, in order to have time to accommodate all that are involved schedules. Mickey Finn, resident of Sidbury Road, commented that his concern was for the wildlife in the area, that there was a lot of wildlife living in the area that would be developed and that he hoped the developer would take that into consideration and leave some areas as they are for the wildlife to continue to live. Chairman Williams asked if there was in further discussion from the Board or Staff; The Board had further discussion on wither they should or could require a Development Agreement at this time; Attorney Thurman stated that they could not require anyone to agree with the County, with that said the Board could condition the approval based on a Development Agreement being reached. The Board held a brief discussion regarding their options in moving forward with a motion.

Vice-Chairman McClammy made a motion to approve the Master Development Plan and the SF-1 as presented, waving the public hearing for the SF-1, that consideration should be given, at minimum, to schools, road connectivity, public services and project vesting. A memorandum of understanding or a Development Agreement with the County is encouraged within 9 months from today's date or prior to the next phase submittal; seconded by Board member Edens. The vote was unanimous.
(Public Hearings Closed)

7. **Discussion Items:** Due to the time, Chairman Williams asked the Board members and staff if all would be in favor of tabling the discussion items until the August 5, 2014 meeting. Board members agreed to the request, so that they may have time to review the information staff provided; staff commented that if that was the Board's wish, they had no objections.

   a. **Planning Staff Items:**
      i. Discussion on Parking Standards
      ii. Discussion on Portable Storage Containers

   b. **Planning Board Members Items:**

8. **Next Meeting:** Scheduled for August 5, 2014.

9. **Adjournment:** The meeting adjourned at 11:00 pm.