Pender County
Planning and Community Development

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MINUTES

Pender County Planning Board Meeting
Tuesday, August 5, 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 7:04 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:** Board member Marshburn made the motion to adopt the agenda; seconded by Board member Edens. The vote was unanimous.

2. **Adoption of the Minutes: (July 1, 2014)** Board member Edens made the motion to adopt the minutes; seconded by Board member Marshburn. 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 comment and opened the floor for the public hearings.

(Public Hearings Open)

4. **Zoning Map Amendment **tabled from the 7/1/2014 Meeting****
Pender County, applicant, on behalf of Melanie G. Herring, and Keith Tatro, owners, is requesting approval of a Zoning Map Amendment for a general use rezoning of two (2) tracts totaling 2.19 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), and 3322-44-4210-0000 (1.19 acres). Ashley Frank, Senior Planner, presented and gave background information for agenda item 4. Chairman Williams asked if the Board had any questions for staff, due to no questions Chairman Williams opened the floor for comments from anyone who signed up to speak. Mr. Rodriquez, property owner, stated that his property was converted from Rural Agricultural to General Business, the only reason why it was changed in the first place was due to a mapping error and he was in attendance to speak on behalf of the other two property owners to request that all the property be zoned the way that it original was. Keith Tatro, property owner, stated that when he purchased his property it was zoned commercial and he wished for it to be returned back to that. Board member Nalee asked which lot did Mr. Tatro own; Mr. Tatro answered that his lot was lot number 4 on the provided map. Chairman Williams asked if Mr. and Mrs. Tatro had any prior knowledge of the change that occurred due to the mapping error; Mr. and Mrs. Tatro answered no. Board member Edens stated that she believed it was the Board's concern if the property owners wanted the error corrected; Mrs. Tatro stated that they did want it corrected; they wanted to open a

business and were never notified of the change, due to the change being done in error. Chairman Williams asked if the Board had any other questions or discussion; if not he would entertain a motion.

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

5. **Master Development Plan:**
Gairy Canady, applicant, on behalf of Lisa L. Salemi-Haves, owner, is requesting the approval of a Master Development Plan for a single family residential subdivision. The proposed project is located on the north side of Kings Landing Road (SR 1567) approximately one (1) mile from the intersection of Country Club Drive (SR 1565) and Kings Landing Road (SR 1567); north of Bellowing Doe Road and Seven Pines Residential Subdivision, west of Crestwood Residential Subdivision, east of undeveloped land and to the south of Hideaway Shores and Windy Point (private roadway). The property is zoned RP, Residential Performance Zoning District and may be identified by Pender County PIN 4203-51-7342-0000. Megan O'Hare, Planner, presented and gave background information for agenda item 5. Planner O'Hare stated that the property is zoned Residential Performance, the request is for a by right subdivision and is consistent with the Comprehensive Land Use Plan; that staff recommends approval and request that the preliminary plat hearing be waived as long as all conditions are met. Chairman Williams asked for the purpose of clarification, the request to waive the preliminary plat hearing is due to the applicant's submittal has to meet the Pender County Unified Development Ordinance to proceed; Planner O'Hare answered that was correct and that the applicant has already met most of the preliminary plat requirements. Chairman Williams asked if the Board had any questions for staff, due to no questions Chairman Williams asked to hear from the applicant. Gairy Canady, applicant, stated that he was a Land Surveyor and Developer, that him and his partner were buying the property to develop, that he understood there were some concerns and questions and he was present to answer any questions. Mr. Canady stated that they did hire an engineering firm to do all of the engineering, a topographic survey was done, he understands there was a question regarding what would be done with the drainage and water, all of that had been worked out, a soil scientist was hired to check the property and designed a plan for the septic tanks; as far as the adjoining properties that are having drainage problems, there will be no water dumped on the neighboring properties; in regards to the connection to Windy Point Road they are not pushing to connect but, it is a good idea; it is standard procedure to have a stub out for future connection and the roads in the development will be State maintained. Mr. Canady stated that he would be glad to answer any questions. Chairman Williams asked if the Board had any questions for Mr. Canady, due to no questions Chairman Williams opened the floor for comments from anyone who signed up to speak. Nicholas Pryor, Hideaway Shores resident, Mr. Pryor thanked the Board for the opportunity to be heard, he stated that he has lived in the neighborhood for eighteen years and the idea of the proposed Master Plan is not appropriate; Mr. Pryor asked the Board if they had any personal knowledge of the site; Chairman Williams stated that he was familiar with the site. Mr. Pryor asked if the Master Plan had been approved by any type of Board; Director Breuer answered no. Mr. Pryor stated that he was under the impression that the property owners were not permitted to do any major type of construction or demolition on the property until after the proposal was approved; Director Breuer answered that he was correct; Board member Edens asked couldn't the owners clear the land; Director Breuer answered that if you own property and want to clear the land you can do that, but if you have an approved subdivision you are not supposed to do any land disturbing activities until you have a Preliminary Plat approval. Mr. Pryor stated that about six months ago a large bulldozer appeared on the edge of the property, several days later a total of 15,000 sq. yards of woodland had been destroyed, left in piles and for six months it has just been left there, the site is trashed; Mr. Pryor stated that if it is true that they are not supposed to be disturbing the land without Preliminary Plat approval, but they are, then he moved that the Board not approve the project on those grounds. Director Breuer stated for clarification that a tree survey would only be required for Planned Development or Commercially zoned properties, as a property owner they can clear trees off of their property and will not be violating any Pender County Ordinance, if they started turning dirt or

building roads they would be in violation. Mr. Pryor commented that many proposals have been presented for that area over the years and they have become very wary of what is said and what is done, that if the treatment of those woodlands is any example of what is to come, then he doesn't think it will work out well for anyone involved. Allie Morgan, Hideaway Shores resident, stated that he was opposed to the subdivision for several reasons, he doesn't understand how private companies can say which lots will perk and as long as they sign off on it, Pender County's Environmental Health Department will go along with it, he feels like there will be a problem with sewage and drainage, that there is a drainage ditch behind Hideaway Shores that stays full of water now. Tim Ring, Hideaway Shores resident, stated for those that were not familiar with the area, Hideaway Shores was the development located north of the proposed Master Plan; that he didn't understand how the clearing of the land would not cause more drainage issues, wants to make sure that the drainage ditch that is there doesn't get disturbed during any future activity if the plan is approved, that the residents have no desire or intention to make Windy Point road a state maintained road. Mr. Ring said that he understood all the adjoining property owners were notified of the proposed Master Plan but, Hideaway Shores Home Owners Association was never notified and are disappointed about that. Chairman Williams asked if the Hideaway Shores Home Owners Association own an adjacent property to the site; Mr. Ring stated that Windy Point road is owned by the association, so he would think they would be notified. Michael McDowell, Hideaway Shores resident, stated that he has been a resident since 1984 and over the years he has walked along the drainage area, which is the neighborhoods main drainage area, and is very interested to know what effects the development would have on their drainage. Chairman Williams asked if the drainage area had an outlet; Mr. McDowell answered that it goes down through the proposed development area to a ditch at King's Landing Road, which is where the majority of the existing development's drainage goes; Chairman Williams asked the applicant if he was aware of the drainage ditch and the existing flow; Mr. Canady answered yes and that nothing would drain towards Hideaway Shores. Planner O'Hare stated that the topographic map was included in the Board's packet, which could give clarification on where the drainage line would be. Chairman Williams asked the applicant if there was any intent of blocking the drainage; Mr. Canady answered no. Mr. McDowell commented that it was mentioned of Windy Point Road becoming a public road, which if that happened it would create an unnecessary second entrance into Hideaway Shores, which would increase traffic and change the existing nature of the community; Chairman Williams asked if he would be correct by saying that the development cannot connect to Windy Point Road unless it became a state maintained road; Director Breuer answered correct unless there was some sort of agreement that the connection was wanted on Windy Point road. Chairman Williams explained that the connection would not be forced to happen, however, the State of NC could decide to take over the roads, but a developer could not force the connection; that Planning does try to plan for good connectivity for public safety reasons, so therefore current developments have to show the ability to connect to existing developments. Robert Gould, Crestwood resident, Mr. Gould stated that for the past eighteen years the eastern part of the development site has drained into the Driftwood Lane area, that there is an existing severe drainage issue and that he wants reassurance that after the developer has removed hundreds of trees and replaced them with asphalt and concrete, that the drainage will not flood his property. Chairman Williams asked Mr. Canady to explain to Mr. Gould what the engineering plans were for reassurance; Mr. Canady explained that their impervious area has to stay at 12% or below, the engineer has designed the project so that the storm water runoff doesn't affect any neighboring properties, that it is the law and that they are in compliance with the State regulations. Harvey Lee, Hideaway Shores resident, stated that he had been a resident for twenty-three years and was not aware of the new development; he understood Mr. Canady's position in wanting to develop property that he owned, however that area is so saturated with water, he just cannot understand how adding more houses to an area that stays wet could be approved and believes there are many people that will be affected that have no idea about the proposed development. Chairman Williams asked if there were any more comments; Mr. Canady commented that he was only required to notify adjoining property owners of his proposed development and he did so, that he was not trying to pull nothing sneaky. Planner O'Hare commented for the purpose of clarification, all adjacent property owners were verified and notified by

mail, no letters were returned, notice of the hearing was ran in the newspaper for two consecutive weeks, and signs were placed on the property giving notice of the hearing, all legal requirements were met. Vice-Chairman McClammy stated to Mr. Canady that part of his application was a request to waive the Preliminary Plat hearing, that we have heard concerns from the neighbors regarding sediment, erosion control and storm water management; at what point going forward will there be more definitive information that could be presented to the community to address their concerns; Mr. Canady stated that the State sets forth guide lines that have to be followed in order for the plans to be approved and we have met all of those guidelines, as mentioned earlier their Sediment and Erosion plan has been approved, there were two comments regarding their storm water management plan and those have been addressed as well and should receive the permit next week. Vice-Chairman McClammy stated that he was hesitant to waive the Preliminary Plat hearing with the number of outstanding items and the quantity of concerns regarding runoff; Mr. Canady replied that they have completely complied and are simply waiting. The Board continued a brief discussion with Mr. Canady regarding his stated compliance. The Board held a brief discussion regarding the presented case, what their responsibility and abilities were as the Pender County Planning Board. Chairman Williams requested to entertain a motion.

Board member Edens made a motion to approve the Master Development Plan as presented including the request to waive the Preliminary Plat hearing; seconded by Board member Baker. The vote was unanimous.
(Public Hearings Closed)

6. **Discussion Items:**
   - **a. Planning Staff Items:**
     - i. Parking Standards:

Planner McCarthy reviewed a memorandum provided to the Board regarding the Planning Board's request for staff to recommend options to alleviate some of the issues associated with the existing parking standards. Planner McCarthy thoroughly reviewed the eight concepts included in the memorandum and asked if the Board had any questions or discussion. Board member Baker asked how the change of use for an existing establishment be factored; Planner McCarthy explained that it would be addressed during staff's review of the application and previous agreement. Board members and staff held a brief discussion regarding shopping center's parking requirements; Board member Baker commented that he felt none of the presented solutions would solve issues with shopping center parking; Planner McCarthy stated that parking for shopping centers are typically not included in such agreements, that agreements are generally for standalone structures. Chairman Williams stated that he believed the Board's request was for solutions for smaller structures that may have originally been residential converted to business. Director Breuer gave an example of how parking requirements would change for a structure that was originally approved for the use of a warehouse that was now requesting a change of use to a nightclub. Board members continued to discuss examples of parking requirements for small businesses that would require re-evaluation once the use changed. Board members and staff discussed and described the various approvable parking space materials and the cost of the various materials. Director Breuer asked if the Board recommended that staff craft language regarding shared parking; Chairman Williams stated that he thought it would be smart to do so; Director Breuer stated it would be a goal to allow as much as possible while maintaining protection when it was time to update the Comprehensive Land Use Plan; that Planner McCarthy had done a tremendous job providing examples and with the Board's recommendation staff will craft language for a text amendment regarding five or less parking space requirements, allowable surface materials and maintenance and present it to the Board as a discussion item at the next meeting. The Board

recommended that staff move forward.

ii. Portable Storage Containers:
Senior Planner Ashley Frank reviewed a memorandum provided to the Board regarding the Planning Board's request for staff to provide information regarding Portable Storage Containers. Ms. Frank thoroughly reviewed the memorandum which included language from the ordinances of surrounding jurisdictions and the current language of the Pender County Unified Development Ordinance; Ms. Frank explained that through staff's research they determined that direction from the Board regarding 1) should they be permitted as permanent storage options like an accessory building, 2) should they be allowed in all districts, 3) should it require buffering and setback requirements, and 4) should they be approvable for dwellings; Ms. Frank reminded the Board that a tractor trailer that is licensed by the State of NC is not considered a portable storage container via the Pender County Unified Development Ordinance and asked if the Board had any questions or discussion. Chairman Williams stated that for habitable purposes, he would certainly think they would have to be required to meet the building code; Director Breuer commented that if they are greater than twelve feet in dimension they would require a building permit to be issued, in order for a Building Inspector to issue a building permit it has to be engineered to met the building code and that is a requirement that has to be meet regardless of if it is for storage or habitable purposes. Board member Nalee asked if the Board had to make decisions or recommendations tonight; Chairman Williams stated that he thought the Board should at least cover the basics, where did staff want to start; Director Breuer suggested moving forward without a decision regarding the habitable possibilities, that right now the county is dealing with a proliferation of these being utilized as storage units in all zoning districts without being permitted, which is causing complaints due to them being a violation of the ordinance. Director Breuer stated that he believed the easy question to answer first would be should they be allowed as permanent storage containers in a residential district; Chairman Williams stated that he felt they should not be allowed on a long term basis that if a permitting process could be in place to allow them for a short term basis then maybe that would be approvable; Ms. Frank explained the requirements stated in the ordinance in reference to the permitted uses and time frame requirements for portable storage containers. Chairman Williams stated that he felt the time frames could be extended. Chairman Williams asked if it was the Board's recommendation that the portable storage containers shall not be permitted permanently in residential districts; that they may be allowed for a permanent use in a non-residential area. Director Breuer asked the Board's recommendation in regards to requiring screening for permitted containers; Vice-Chairman McClammy stated that he felt appropriate screening should be required for commercial uses. Director Breuer stated that if the Board recommended requiring screening staff would craft the language and present it to the Board for discussion. Board member Baker commented that he felt there should be limits on the number of containers that can be permitted per site. Director Breuer stated that he believed staff had enough feedback from the discussion to move forward and if there were any further concerns or comments from the Board, please send staff an email.

iii. Planned Development Zoning District Standards:
Senior Planner Ashley Frank explained that there was no information regarding this discussion item provided with the Board's packets, that this item came about after they had received their packets. Ms. Frank stated that the Planned Development District requires residential and commercial uses and a Master Development Plan is required for any changes of use other than a single family home going on a

preapproved existing lot. Ms. Frank explained that staff had received a couple of proposals that don't meet the Master Development intent; they are small scaled developments that will not meet either the residential or commercial requirement of the Planned Development District. Ms. Frank provided the Board with a map of the Planned Development Districts located in the county and stated that a majority of them do not have an approved Master Development Plan. Ms. Frank stated that when an application is submitted for a project located in the Planned Development District, that sometimes they have no intention of developing a residential component, so therefore they automatically don't meet the standards, staff would like direction from the Board in regards to changing the standards of the Planned Development Districts, such as a plan could be presented with or without one of the uses in order to accommodate development of the smaller Planned Development zoned tracts. Director Breuer stated that it was staff's recommendation that they continue to use the GIS to target the isolated tracts, that a seven hundred acre tract should be left zoned as Planned Development; the issue is the one or two acre tracts that will not meet the standards for residential and commercial uses. Director Breuer stated that their guideline for determining what tracts would stay Planned Development would be if the tract was a hundred acres or more. Director Breuer commented that it was a very complex issue that it was discussed with the Planning Board in 2012, but now it is becoming an issue. Director Breuer concluded that staff would continue to work on the item and bring it back to the Board during next month's work session, staff wanted to at least introduce the matter.

b. **Planning Board Members Items:**
Board member Baker asked where staff was on the TRC meetings; Senior Planner Ashley Frank answered that staff was still working on the text amendment which included about thirty two sections of the ordinance that would have to be amended in order to permit such meetings.

7. **Next Meeting:** September 9, 2014 at 7:00 pm; Work Session at 6:00 pm

8. **Adjournment:** The meeting adjourned at 8:45 pm.