

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

MINUTES

**Pender County Planning Board Meeting
Tuesday, October 13, 2015 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 7:03 pm

Roll Call: Chairman Williams

Pender County Planning Board Members:

Williams: McClammy: Baker: Edens: Fullerton: Marshburn: Nalee:

- 1. Adoption of the Agenda:** Board member Fullerton made the motion to adopt the agenda as presented; seconded by Board member Edens. The vote was unanimous.
- 2. Adoption of the Minutes: (September 1, 2015)** Board member Fullerton made the motion to adopt the minutes; seconded by Board member Marshburn. The vote was unanimous.
- 3. Public Comment:** No sign-ups for public comment.

(Public Hearings Open)

- 4. Preliminary Plat:** *(Tabled Item from September 1, 2015 Planning Board meeting)*

Signature Top Sail NC, LTD, applicant and owner, requested the approval of a Preliminary Plat for Phase III of the mixed-use development proposal known as Wyndwater. Specifically, the request for Phase III approval includes sixty-nine (69) single-family conventional lots and forty (40) single-family attached duplex lots. The subject property is zoned PD, Planned Development zoning district. The properties are located to the north of Doral Drive (SR 1693), northwest of Sloop Point Loop Road (SR 1563), south of the conditionally approved Master Development Plan known as Cardinal Pointe and east of US HWY 17 in Hampstead and may be further identified by Pender County PINs; 4214-12-3906-0000 and 4214-04-6027-0000. Senior Planner O'Hare presented and gave background information for agenda item 4. Mike Pollak, applicant, commented that the outstanding items had been taken care of, the TIA was complete and submitted for review and the agreement with Pluris was complete. Chairman Williams thanked the applicant for bringing a more complete submission for the Board's review and opened the floor for public comments. Al Burfield, 353 Topsail Plantation Drive, Hampstead, stated that he had two concerns; 1. Would Topsail Greens drive access to US HWY 17 be for the life of the plan and 2. Some of the retention ponds are being filled, how would that affect drainage. Mr. Pollak replied that there were no plans to cutoff Topsail Greens drive and as for drainage it is a concern of everyone's, and everything they intend to do will be to make things better. Mr. Burfield thanked the developers for what they had done so far. Ron Maier, 911 Kontiki Court, Hampstead, commented that there will be a lot of traffic on Topsail Greens drive and believes that traffic will increase on their private road Champion Drive which will cause maintenance issues. Mr. Maier stated that the solution would be to build the future road now; Chairman Williams commented that it was stated at the last meeting the developers do not own the property at this time

and cannot be made to build a road on property they do not own. Director Breuer commented that it is staff's intention to have interconnected roads with the future development known as Cardinal Pointe; Senior Planner O'Hare added that the future connection was included in the previous approval. Mary Rogers, 910 Lighthouse Court, Hampstead, president of the Topsail Greens Homeowners' Association, asked for permission to read a letter from a member that could not attend the meeting, Chairman Williams granted permission. Ms. Rogers read the letter from Bob Cramblitt and Peggy Kelly, 811 Jetty Court, Hampstead, which gave some background on their home, neighborhood, and stated their concerns regarding increased traffic, the use of Topsail Greens' roads and the integrity of their community. Due to no further sign-ups, Chairman Williams closed the floor for public comments and opened the floor to the Board for any questions or comments.

Board member Fullerton made a motion to approve the requested Preliminary Plat as presented; seconded by Board member Marshburn. The vote was unanimous.

5. Zoning Map Amendment:

Grey Bull Inc., applicant, on behalf of Linda Kaye Howard Taylor et al, owner, requested approval of a Zoning Map Amendment for a conditional rezoning of one (1) tract totaling approximately 120.87 acres from RP, Residential Performance zoning district to RM-CD1, Residential Mixed conditional zoning district. The subject property is located to the east of US HWY 17, to the south and west of the residential subdivision Forest Sound, and to north of the residential subdivision Hampstead on the Sound in Hampstead and may be further identified by Pender County PIN 3292-27-2690-0000. Trey Thurman, Pender County Attorney, commented that some Board members had expressed concerns regarding their participation during the Public Hearing for agenda item 5; Attorney Thurman read the statutes regarding the participation of Board members during cases that may affect or cause an impact on them personally, the statutes stated that a Board member could participate but could not vote on the matter. Chairman Williams disclosed that he owns property in the said area and has had several business dealings with the Taylors, so therefore he would conduct the hearing, but would not comment or vote. Board member Edens disclosed that she owns property in the said area, but would like to participate and vote. Senior Planner O'Hare presented and gave background information for agenda item 5. Senior Planner O'Hare stated that the Developer did hold a community meeting and discussions between the Developer and the Home Owner's Association of Forest Sound are ongoing regarding concerns of the new development. Robert Jackson, applicant, thanked the Board for their time, gave a brief history of Grey Bull Inc. and stated that their design was based off of the requirements of the Pender County Unified Development Ordinance, Pender County Comprehensive Land Use Plan and the type of buyers in today's market. Mr. Jackson stated that there was some misinformation of the project, but through the Community meeting some concerns were met; that under the current zone of Residential Performance (RP) he could develop one hundred ten (110) units, but is only asking to develop one hundred six (106) units in his rezoning request. Mr. Jackson stated that during construction the heavy equipment would be dropped off onsite to avoid repetitive movement on the road that would cause damage and that at the last meeting held with Pender County officials, it was of their opinion that construction traffic should be split by having a right-in on Factory Road and a right-out or left out off of Forest Sound Road. Chairman Williams opened the floor for public comments. John Chapman, 249 Grovediere Lane, Hampstead, yielded his time to Patricia Fields. Attorney Thurman stated that he believed there was a spokesman from the home owner's association and recommended that the Board hear from that person first. Patricia Fields, 1724 Corcus Ferry Road, Hampstead, Forest Sound Homeowner's Association, president, thanked Grey Bull Inc. for their honesty and willingness to work with the home owner's association. Ms. Fields stated that one of their biggest concerns is the right-in on Factory Road and right-out on Forest Sound Road. Ms. Fields explained that Forest Sound Road was built in 1980 to the Department of Transportation's standards, but not sure if it meets the current Department of Transportation's standards and that the road has a long median that is not designed for large vehicles, so therefore they would like for the County to reconsider the pattern of construction traffic. Ms. Fields stated that the Homeowner's Association would like to have the agreements between them

and the Developer attached to the rezoning request if it is approved; Attorney Thurman stated that the County could not enforce private agreements. Board member Edens asked if the agreement in question was any different than the six (6) conditions listed in the staff report; Director Breuer responded that he had not seen the private agreement and further explained examples of what the County could enforce. There was a brief discussion between the Board, staff and the attorney regarding examples of enforceable conditions. Susan Chapman, 249 Grovediere Lane, yielded her time to John Chapman. John Chapman, 249 Grovediere Lane, Hampstead, asked if there was any intention to build more than one hundred six (106) units; Director Breuer stated that the developer would have to develop according to their submittal. Mr. Chapman also stated that he was concerned about storm water drainage, the plan showed that the drainage would be drained into the Old Topsail Creek, which is a part of the flood hazard area; a high density project would cause a lot of drainage, which would cause an impact on the properties in Forest Sound. Mr. Jackson commented that he had no intentions of building more units than what he had proposed that they will be required to present a storm water design to the Planning Board for approval and the development will be classified as a low density project. Mac Taylor, 326 Howards Lane, Hampstead, introduced himself as Linda Taylor's husband and stated that they picked a developer that had integrity and only asked to be treated the same as other property owners. Linda Taylor, 326 Howards Lane, Hampstead, gave history of her families' property, her experiences of growing up on the property, the offers they have received for the property and the history of Hampstead. Ms. Taylor stated that she has never told anyone what they could do with their land and only expected the same in return. Haywood Bryant, 35 Harold Court, Hampstead, commented that he was not disputing anyone's right to sell their property, however is disputing the fact that Hampstead has eleven (11) different developments going on , that will impact the school and highway systems. Mr. Haywood suggested that some of these developments be put off and let Hampstead remain a small community or at least until sewer is completely available. Due to no further sign-ups, Chairman Williams closed the floor for public comments and opened the floor to the Board for any questions or comments. There were no questions or comments from the Board, Director Breuer asked if the Board would be inclined to review each of the six (6) conditions submitted on page nine (9) of the staff report, so that there would be a clear recommendation for the Pender County Commissioners; Chairman Williams asked Director Breuer to proceed with the conditions. Director Breuer asked for the applicant to come up to the podium to participate in the review of the conditions. The following conditions were discussed among the Board, staff, and applicant. All changes are noted in red.

F) Conditions for Approval of Petition

1. Housing type allowed shall be limited to Single Family Detached – Conventional as defined. A "single-family detached residence" shall be a dwelling unit located on a single lot with private yards on all four sides. **Should also include the number of units and all other uses on the property**
2. A Jurisdictional Determination and Wetlands Impact Permit are required prior to Preliminary Plat approval for the identified wetlands outlined on the submitted site plan by the private environmental consultant. Any development within these areas may be subject to the permit requirements of Section 404 of the Clean Water Act.
3. The Applicant shall submit an approved Traffic Impact Analysis (TIA) prior to the approval of any phases of the development proposal.
4. Buffers
 - a. Applicant will provide a twenty (20) foot buffer along Forest Sound Road (private) with additional plantings to preserve community cohesiveness with the adjacent Forest Sound neighborhood. Buffer plantings shall be in addition to existing natural growth on the property. The plantings shall consist of indigenous trees and shrubs such as but not limited; to wax myrtles, red cedars, oak species, maples and other similar species as

available. The specific plantings shall be a minimum of two (2) inch caliper and planted thirty (30) feet on center or as a mature canopy tree may dictate. This shall establish a natural buffer screening to create a landscape berm and natural screen. All buffers shall be maintained by Applicant. **Buffer should be located in a common area, Buffer added in areas that do not have existing vegetation, Buffers should exist only on lots that abuts Forest Sound road and be maintained by the new development's homeowner's association**

- b. Applicant shall install a landscaped area of ten (10) feet in depth between the identified right of way Second Street (SR 1616) and the adjacent residential structures in coordination with the adjacent property owners on their private property, subject to private agreement between landowners. The plantings shall consist of indigenous trees and shrubs such as but not limited; to wax myrtles, red cedars, oak species, maples and other similar species as available. The specific plantings shall be a minimum of two (2) inch caliper. All buffers shall be maintained by Applicant. The developer shall work with NCDOT in the installation of driveway access and culverts to allow for existing rear yard structures. **Language would have to be changed to reflect that this would be a private agreement between the developer and property owners, the County would have no way to enforce this as a condition**
 - c. The Applicant will provide a twenty (20) foot landscaped easement in the rear of the lots on the eastern property bounds (Grovediere Lane). This shall serve as a perpetual vegetative buffer between adjacent properties. **Need to define what the easement is and if it will be in a natural state, would be enforced by the Development's Homeowner's Association, not the County**
5. Roadways
- a. In order to mitigate possible road damage on Forest Sound Road (private) the applicant shall maintain all heavy vehicles and construction traffic during the infrastructure and site work to access the site from existing public right of ways. Language shall be included in construction contracts while letting the work to reflect this requirement. **Remove from the conditions**
 - b. The Applicant shall work with NCDOT through the Driveway Permitting process to provide adequate outbound traffic safety from Forest Sound Road (private) to US HWY 17.
 - c. The Applicant shall collaborate with the Forest Sound Homeowners Association to devise a Road Maintenance Agreement specifically to address improvements and the long term maintenance of Forest Sound Road (private) from the site entrance to US HWY 17, to be designed and constructed in compliance with current NCDOT Subdivision Roads Minimum Construction Standards according to the Pender County Unified Development Ordinance Section 7.5.3.
 - d. If there are any changes to the approved site plan or if additional single family residential structures are proposed within the subject property the connection to Davis Road and Lea Drive Extension (SR 1614) shall be re-evaluated for feasibility of interconnection. This location is identified as "stub out for potential future connection to US HWY 17" on the submitted site plan.
6. The Applicant shall collaborate with the Forest Sound Homeowners Association regarding the privacy of their existing neighborhood, roadways and marina. This agreement is strictly private between the Forest Sound HOA and the Applicant.

- a. The Applicant has agreed to work with the FS HOA to design and acquire signage that can be prominently placed at the entrance (or where deemed necessary) to adequately warn the public to trespass etc. This may be in the form of a gate or a sign along Forest Sound Road (private) but will be a private agreement between the FS HOA and the Applicant.
- b. The Applicant agreed to formally educate each future homeowner of the new Project through a written document outlining the same and having homeowner acknowledge the same as having been received and reviewed.
- c. Additionally, the Applicant has agreed to set aside in Escrow a sum for the future acquisition of a gate or security device to help monitor and/or gate or fence areas that may become encroached upon over time. After four (4) years, the approximate time of build out and sales of subject property, if such proceeds in Escrow have not been remitted to the FS HOA Applicant will be entitled to their return.

Staff will work with the County Attorney, Developer and the Forest Sound Home Owner's Association to create language that will allow 6a, 6b, and 6c, to be enforceable.

Chairman Williams asked if there were any further comments or questions. Board member Edens asked if the Forest Sound Homeowner's Association was in agreement with the changes made; Ms. Fields answered yes.

Board member Fullerton made a motion to approve the Zoning Map Amendment as discussed; seconded by Board member Nalee. The vote was five (5) in favor of approval with Chairman Williams abstaining from the vote.

6. Zoning Map Amendment:

David A. West, applicant and owner, requested approval of a Zoning Map Amendment for a general use rezoning of of four (4) tracts totaling approximately 65.56 acres from GB, General Business zoning district to RP, Residential Performance zoning district. The subject properties are located near the intersection of US HWY 117 and Anderson Rd (SR 1315) in Union Township and may be further identified by Pender County PINs; 3313-88-8748-0000, 3313-99-5261-0000, 3313-79-6117-0000 and 3313-98-3668-0000. Senior Planner O'Hare presented and gave background information for agenda item 6. David West, applicant, explained to the Board that the current zoning would not allow a residential use, so he was requesting the Zoning Map Amendment so that he could move his existing home and sell the property that it is currently located on. There were know sign—ups for public comment and there were no questions from the Board.

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

7. Zoning Text Amendment:

Pender County, applicant, requested the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance to amend Sections 8.1.2 and 8.2.2 to revise the requirements for buffer location and applicability. Additionally, to amend Section 7.6 to allow for clusterboxes as a permitted use in dedicated open space, Appendix A; Definitions to add Addressing Coordinator and Appendix D; Typical Forms and Surveyor Notes, to include Addressing Coordinator approval on Final Plat. Director Breuer presented and gave background information for agenda item 7. There were know sign—ups for public comment and there were no questions from the Board.

Board member Nalee made a motion to approve the requested Zoning Text Amendment as presented; seconded by Board member Fullerton. The vote was unanimous.

(Public Hearings Closed)

8. Discussion Items:

a. Planning Staff Items:

- i. Collector Street and Comprehensive Land Use Plans Update: Director Breuer reviewed the memo provided to the Board and announced that the consultant interviews for the Comprehensive Land Use plan would be Wednesday, October 14, 2015 at 2pm and 3:30pm at the Hampstead Annex.

- b. Planning Board Members Items:** Chairman Williams asked for an update from the Technical Review Committee meeting; Senior Planner O'Hare provided an update of the meeting.

9. Next Meeting: Wednesday, November 4, 2015

10. Adjournment: 10:30 pm

The entire recording of the Planning Board Meeting is on file with the permanent records in the Planning Department office.