

# Pender County Planning and Community Development

## Planning Division

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## MINUTES

### Pender County Planning Board Meeting Tuesday, April 5, 2016 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 7:08 pm

**Roll Call:** Chairman Williams

Pender County Planning Board Members:

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

- 1. Adoption of the Agenda:** Board member McClammy made the motion to adopt the agenda as presented; seconded by Vice-Chairman Fullerton. The vote was unanimous.
- 2. Adoption of the Minutes: (February 2, 2016 and March 1, 2016)** Board member Baker made the motion to adopt the minutes; seconded by Board member Edens. The vote was unanimous.
- 3. Public Comment:** No sign-ups for public comment.

*\*(Public Hearings Open)\**

#### **4. Master Development Plan:**

RSC Engineering, PLLC., applicant, on behalf of James E. Jones, owner, requested approval of a Master Development Plan for a commercial development known as Hypnotic Solutions Hypnosis Center. Specifically, this request is to allow for the following use; Offices of All Other Miscellaneous Health Practitioners (NAICS 621399). The subject property is zoned PD, Planned Development zoning district and Other Miscellaneous Health Practitioners are permitted via Master Development Plan in the PD, Planned Development zoning district. The subject property is located to the north east of Sidbury Road (SR 1572) in the Topsail Township and may be further identified by Pender County PIN: 3271-21-3570-0000. Board member Edens stated that she was the applicant, withdrew from voting, and took a seat in the audience. Senior Planner O'Hare presented and gave background information for agenda item four (4). Board member McClammy asked if the property owners were notified; Director Breuer stated that the adjacent properties were notified not all the parcels along the easement; however signage was posted on the property. Vice-Chairman Fullerton asked staff if they had an idea of where the commercial sites would be located in the neighboring development known as Blake Farm, Senior Planner O'Hare pointed out the proposed areas on the projected map. Brenda Blankenship, owner, explained that she and her husband had purchased the said property from James E. Jones after submitting the application for tonight's hearing; Mrs. Blankenship further explained the location of her property in relation to the proposed commercial sites in Blake Farms. Board member McClammy asked Mrs. Blankenship if she would be the operator of the business, if she already operated such a business, and if so, what was the amount of trips generated; Mrs. Blankenship answered yes, she would be the operator, she currently operates the business in a different location, averages about two (2) to three (3) clients a day and she sees clients by

appointment only which eliminates drive by traffic. Discussion ensued between the Board, staff, and applicant regarding the pedestrian walk way being required on the site map, if the current owner's signature was on the application, and who owned the easement leading to the said property; staff and applicant stated that a pedestrian walk way would be provided on a site map if the request was approved, the application had the current owner's signature, and the Batts family owned the easement. Vice-Chairman Fullerton stated that he had concerns with having a commercial use surrounded by residential uses and a gravel access easement to access the commercial use; Sonya Edens, RSC Engineering, PLLC, applicant, stated that she understood the Board's concerns, but the area was zoned for residential and commercial uses and they thought the requested use would blend well with the Blake Farm commercial areas abutting the property. Lengthy discussion took place between the Board, staff and the applicant regarding the Pender County Ordinance requirements regarding use changes and the approved uses under the NAICS code. Chairman Williams asked Mrs. Blankenship if she would have living space in the business; Mrs. Blankenship responded no, that it would only be a place of business. Richard Batts, 10165 Sidbury Road, stated that he and his wife were not in agreement with the request, had concerns of safety for his grandchildren and the other children in the area that play along the easement, and had no intention of upgrading the existing easement. Chris Blake, 10565 US Hwy 17, commented on a news article that ran in the Starnews paper, Mr. Blake commented that it was presumptuous to assume that the area will be developed anytime soon and for now the area should stay residential. Chairman Williams asked who owned the easement; Mr. Blake explained that the Blakes of Scotts Hill, LLC own and maintain the easement. Mr. Blake stated that he and his family were against the proposal and questioned if the property was even suitable for septic. Director Breuer stated that the plans would have to be evaluated by Pender County Environmental Health in relations to septic and well. Board members continued discussion regarding the ownership, legal rights to use and maintenance of the existing easement; Board member Baker asked if the ownership information was listed on a plat or deed, Mr. Blake stated that there was not a recorded plat for the easement. Sonya Edens, applicant stated that the property was surveyed and the survey map shows a thirty (30) foot access easement; Director Breuer asked if when the property was conveyed to Mrs. Blankenship was she given legal rights to utilize the easement; Mrs. Edens answered yes. Carol King, 10161 Sidbury Road, described the location of her home and commented that her house was built thirty (30) years ago, enjoys the quiet area, grandchildren play along the easement, and is against the proposal. Mrs. Edens stated that there was existing septic on the site, during the septic inspection process it was determined that a drain line would have to be moved so the owner applied for the septic improvement permit, the site perked so there is no issue with having septic, that Mrs. Blankenship was more than willing to assist with the maintenance of the easement, that her business would have less traffic then a home with two (2) to three (3) teenagers. Mrs. Edens concluded by stating that they worked with staff to present a plan that met the ordinance and the zoning so they respectfully ask for approval with conditions pertaining to the maintenance of the easement. Mr. Batts asked if it was normal or if it was an unusual situation for someone that sits on the Board to be representing a case; Chairman Williams explained that Board members have careers also so yes sometimes it happens, that Mrs. Edens has never been a representative in a case before, and due to the conflict of interest Mrs. Edens removed herself from participating as a Board member during this hearing before it started. Due to no further questions or sign-ups Chairman Williams opened the floor for the Boards discussion. Board member Nalee commented that for the record again the notification radius needs to be increased, if Mrs. Blankenship gets a partner likes she hopes, traffic will double and she understands the wear and tear of a gravel road. Board member Nalee concluded by stating that she felt Board member's professional lives should be considered prior to being appointed to serve on a Board. Board member Baker pointed out good points that were captured in the TRC comments by the MPO and asked if any of the recommendations had been considered, Senior Planner O'Hare stated yes they were considered. Vice-Chairman Fullerton commented that the use of the land is what the Board has to make their decision and all uses at this time are residential, as of now it is not known what will be located on the surrounding property in the future, and based on what is known he cannot support the application.

Vice-Chairman Fullerton made a motion to deny the requested Master Development Plan as presented; seconded by Board member Nalee. The vote was four (4) in favor of the motion and one (1) opposed.

**5. Zoning Map Amendment:**

Charlotte P. Kelly, applicant and owner, requested approval of a Zoning Map Amendment for a Conditional Rezoning of one (1) tract totaling approximately 0.47 acres from the RP, Residential Performance zoning district to RA CD2, Rural Agricultural conditional zoning district two. Specifically, the request is to allow only the following NAICS uses; 453 Miscellaneous Store Retailers, 7222 Limited Service Eating Places and 445 Food and Beverage Stores. The subject property is located near the intersection of Point Caswell Road (SR 1128) and Rooks Road (SR 1126) in the Caswell Township and may be further identified by Pender County PIN: 2257-66-1048-0000.

Chairman Williams stated for the purpose of disclosure he knew the applicant very well, that she introduced him to his wife, but he felt he could be unbiased in his role as the Chairman of the Planning Board. Senior Planner O'Hare presented and gave background information for agenda item five (5). Board member McClammy asked for clarification on how long the store had been vacant; Senior Planner O'Hare replied that the applicant would have an exact date, but it has been vacant for at least the one hundred eighty (180) days. Senior Planner O'Hare further explained the purpose of the request was to allow the requested use and maintain compliance with the Pender County Unified Development Ordinance. Charlotte P. Kelly, applicant, gave background of the family and the store located on the property. Mrs. Kelly stated that she has always had a commercial insurance policy and paid commercial taxes on the property, so she was a little confused when she found out that the zone had changed and a business was not allowed, since she never received any type of notification. Chairman Williams explained that the Board has heard several Zoning Map Amendment requests that the applicant didn't realize the zone on their property had changed, that individual notifications were not required for a countywide rezoning. Vice-Chairman Fullerton made comments regarding the goals of ordinance and how the regulations tend to lose "common sense", however an ordinance can be amended. There were no further sign-ups or Board discussion.

Board member McClammy made a motion to approve the requested Zoning Map Amendment as presented; seconded by Vice-Chairman Fullerton. The vote was unanimous.

**6. Zoning Map Amendment:**

Charles M. Elam II, applicant, on behalf of Southeast Custom Homes Inc., owner, requested approval of a Zoning Map Amendment of one (1) tract totaling approximately 39.48 acres from the RA, Rural Agricultural zoning district to the RP, Residential Performance zoning district. The subject property is located on NC HWY 210 approximately 850 feet to the west of the intersection of NC HWY 133 and NC HWY 210 in the Long Creek Township and may be further identified by Pender County PIN: 3214-16-3938-0000. Senior Planner O'Hare presented and gave background information for agenda item six (6). Barbara Graham, 19030 Hwy, 210 West, Rocky Point, explained that she was the daughter of Lettie McIntyre Graham which received a letter regarding the request and was confused as to what the letter was about. Chairman Williams explain the process of the meeting and asked Ms. Graham if she would please allow the applicant to speak and explain his request and then she would have an opportunity to ask any questions or make any comments. Director Breuer reminded the Board that the request was for a General Use Rezoning so if approved any use allowed in the RP, Residential Performance zoning district would be allowed. Charles Elam II, applicant, explained his request further. Ms. Graham asked if she was correct in saying that the property had not been rezoned that the Board would make that decision after hearing the request; Chairman Williams answered that she was correct the applicant was requesting to have the zone changed, the Planning Board would make a recommendation to approve or deny the request, and then the Board of Commissioners would hold a public hearing to make the final decision. Lengthy discussion continued between the Board, staff, and Ms. Graham regarding the history of the property, the community, the notification process of rezoning requests, and understanding of the case. Zephia Brinson, 18884 Hwy. 210 West, Rocky

Point, asked what types of dwellings would be built on the property. Chairman Williams reminded Ms. Brinson and the audience that if the request was approved the applicant would be allowed to have any use or any type of dwelling that was permitted per the Pender County Unified Development Ordinance. Ms. Brinson stated that her main concern was that the development would be a mobile home park. Senior Planner O'Hare offered her contact information to the McIntyre/Graham family so that they could call and set up an appointment with staff to review the request and the ordinance so that they may have a better understanding of the process. Lillie M. Hunt, 16171 Hwy 210 West, Rocky Point, stated that she was also concerned that if the request was approved the applicant would develop a mobile home park. Mr. Elam stated that he had no intention of developing a mobile home park that he was in the business of building houses. There were no further sign-ups or Board discussion.

Vice-Chairman Fullerton made a motion to approve the requested Zoning Map Amendment as presented; seconded by Board member McClammy. The vote was unanimous. Board member McClammy requested that staff advise the Board of when a meeting was scheduled with the McIntyre/Graham Family.

*Board member McClammy requested a five (5) minute recess; Chairman Williams called for a recess  
Chairman Williams called the meeting to back to order at 9:50 pm*

#### **7. Zoning Map Amendment:**

Adam Batchler, applicant, on behalf of Batchlers LLC., owner, requested approval of a Zoning Map Amendment of four (4) tracts totaling approximately 6.023 acres from the IT, Industrial Transitional zoning district to RP, Residential Performance zoning district. The subject properties are located on Shaw Highway (SR 1520), approximately 1,000 feet north of the intersection of NC HWY 210 and Shaw Highway (SR 1520) in the Holly Township and may be further identified by Pender County PINs: 3255-47-8587-0000, 3255-47-8450-0000, 3255-47-8251-0000 and 3255-47-8069-0000. Senior Planner O'Hare presented and gave background information for agenda item seven (7). Adam Batchler further explained the reason for his request. There were no questions or comments from the Board or sign-ups.

Vice-Chairman Fullerton made a motion to approve the requested Zoning Map Amendment as presented; seconded by Board member McClammy. The vote was unanimous.

#### **8. Zoning Text Amendment:**

Stroud Engineering, applicant, requested a Zoning Text Amendment to the Pender County Unified Development Ordinance, Section 4.14 Zoning District Dimensional Requirements. Specifically, the proposal is to amend the separation requirements between structures in the GB, General Business zoning district from fifty (50) to twenty (20) feet separation between structures. Senior Planner O'Hare presented and gave background information for agenda item eight (8). Chairman Williams asked if the requested twenty (20) feet separation would meet the building code; Director Breuer answered yes. Brief discussion took place between the Board and staff to clearly understand the request. There were no questions or comments from the Board or sign-ups.

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

*\*(Public Hearings Closed)\**

#### **9. Discussion Items:**

##### **a. Planning Staff Items:**

- i. Zoning Text Amendment Update:  
Senior Planner O'Hare gave a brief overview of the memo provided to the Board in their packets. Brief discussion ensued regarding the proposed amendment regarding

private street connections. Staff stated that they hoped to present the request at the Board's May meeting.

- ii. **Comprehensive Land Use Plan Update:**  
Director Breuer stated that the Board of Commissioners has denied the request to hire a consultant, but he will be returning before the Board of Commissioners requesting to hire a consultant at their April 18<sup>th</sup> meeting. Director Breuer assured the Board that he and staff are committed to updating the plan. Director Breuer concluded by stating that the decision of the Board of Commissioners had nothing to do with the recommended consultant the Planning Board made a good recommendation, but due to the financial status of the county it was hard for them to approve the request.
- iii. **Announcements:**
  - 4/22/16 Green Growth Workshop
  - 5/19/16 Legislative Training
  - Board of Commissioners appointed Andrea Carter, who was in the audience, to fill the vacancy on the Planning Board.

**b. Planning Board Members Items:**

- i. Chairman Williams asked if there was any type of ordinance that required businesses to keep their property cleaned; Director Breuer replied that there was not. Chairman Williams stated that he believed there should be something because he feels there could be some issues to arise. Director Breuer commented that if the property had junk vehicles, mobile homes, and things of that nature abandoned or stored the Code Enforcement Officer could violate the property owners.

**10. Next Meeting:** May 3, 2016

**11. Adjournment:** 10:40 pm

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