

Pender County Planning and Community Development

Planning Division

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MINUTES

Pender County Planning Board Meeting Wednesday, July 6, 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 7:05 pm

Roll Call: Chairman Williams

Pender County Planning Board Members:

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

- 1. Adoption of the Agenda:** Vice-Chairman Fullerton made the motion to adopt the agenda as presented; seconded by Board member Nalee. The vote was unanimous.
- 2. Adoption of the Minutes: (June 7, 2016 Work Session and Meeting)** Board member Nalee made the motion to adopt the minutes; seconded by Board member Baker. The vote was four (4) in favor of the motion with Vice-Chairman Fullerton abstaining from voting due to his absence.
- 3. Public Comment:** No sign-ups for public comment.

(Public Hearings Open)

4. Zoning Map Amendment:

Coleman Parks, applicant, on behalf of Beach Front Properties, owner, requested approval of a Zoning Map Amendment of one (1) tract totaling approximately 219.5 acres from RA, Rural Agricultural zoning district to RP, Residential Performance zoning district. The subject property is located to the northwest of Island Creek Road (SR 1002) approximately seven tenths of a mile (\pm 0.7 miles) to the southwest of the intersection of NC HWY 210 and Island Creek Road (SR 1002) in the Topsail Township and may be further identified by Pender County PIN: 3263-73-0614-0000. Chairman Williams stated that a public hearing had been held for this item at their June 7, 2016 meeting. Planner Fiester presented and gave background information for agenda item four (4). Coleman Parks, applicant, stated that the request was self-explanatory, he was following the rules of the Pender County Unified Development Ordinance and for those concerned about a new development next to their homes, there was a massive area of wetlands that would separate his development from the existing homes. Chairman Williams opened the floor for the sign-ups who wished to speak.

Kenneth Krug, 369 Knollwood Drive, Hampstead, stated that his concerns were disturbing the wetlands and the existing beaver damn.

Linda Crouch, 359 Knollwood Drive, Hampstead, stated that she was hoping to see a map of the proposed lots; Chairman Williams explained that a map was not a requirement of the request being heard but, if approved there would be a future public hearing that would require the applicant to

provide a development plan. Director Breuer clarified that this is a by-right zoning district and that a subdivision plan would not require a Planning Board recommendation but, would go to the Technical Review Committee (TRC) for administrative approval.

Parker Varin, 337 Knollwood Drive, Hampstead, concerned with density and asked for the difference between RA, Rural Agricultural zoning district and RP, Residential Performance zoning district; Planner Fiester explained the differences between the two zoning districts. Mr. Varin asked when the zoning in the area changed, that he believed his property was zoned R5 when he purchased it; Director Breuer stated that the zoning district was R20 and then explained how and why the County created new zoning districts.

Due to no other sign-ups, Chairman Williams opened the floor for the Board's discussion. Vice-Chairman Fullerton asked if the applicant or staff knew how many acres of the property were located in the AE flood zone; Planner Fiester stated that at the last meeting the applicant said there was approximately thirty (30) acres. Vice-Chairman Fullerton asked the applicant if he had considered requesting to only rezone the acreage outside of the flood area; Mr. Parks responded that they have to abide by all regulations in order to develop property, has no desire to build in the flood area. Vice-Chairman Fullerton stated that creating lots in a flood area causes safety and regulation enforcement concerns for him. Discussion ensued on building and not building in flood zones. Attorney Thurman stated that the Board's discussion had moved away from the request being heard, that the Board must evaluate the request as presented. Board member Baker stated that the Board did have options; they didn't have to make a motion to approve or deny; that he was considering making a motion to table the item for another thirty (30) days to give the applicant time to consider what Vice-Chairman Fullerton had suggested. Board member Baker also explained that he did not make a motion on this request at the last meeting because he wanted to give the people that spoke regarding their concerns an opportunity to bring back subjective evidence in writing, regarding being told that nothing could be developed on the property behind theirs. Mr. Parks asked for the RP, Residential Performance zoning district to be defined; Director Breuer gave the definition and reminded the Board and applicant that in the RP, Residential Performance zoning district the development of a subdivision is by-right so there would be no plans presented to the Board for approval, all plans would be administratively approved based on the rules of the Pender County Unified Development Ordinance. Mr. Parks stated that this process has been very time consuming, he has given all of the needed information, and it has been very costly. Board member Nalee commented that she felt the main concern was the difference of density between the current zone and the requested zone. Due to no other comments or questions from the Board, Chairman Williams asked for a motion.

Vice-Chairman Fullerton made the motion to deny the request as presented; seconded by Board member Nalee. The vote was four (4) in favor of the motion with one (1) opposed. Attorney Thurman stated that a public hearing for the request would be heard before the Board of Commissioners on August 15, 2016. Mr. Parks asked if he could change his request to a Conditional Rezoning at this time in order to move forward, Chairman Williams stated no. Attorney Thurman explained that a request for a Conditional Rezoning is not what was advertised. Director Breuer advised Mr. Parks to contact staff to explore his options.

5. Comprehensive Plan Amendment:

Live Oak Development, applicant, on behalf of Kevin Mills et al, owner, requested the approval of an amendment to the 2010 Pender County Comprehensive Land Use Plan, Future Land Use Map, for one (1) tract totaling approximately 5.53 acres from Rural Growth future land use designation to Mixed Use future land use designation. The subject property is located along the east side of Old Whitfield Road (SR 1726) and Machine Gun Road (private) approximately 1,200 feet west of US HWY 17 in the Topsail Township and may be further identified by Pender County PIN: 4215-23-1857-0000. Senior Planner O'Hare presented and gave background information for agenda item five (5). Chairman

Williams asked how the lines of the map were determined; Senior Planner O'Hare stated that staff was not sure. Board member Baker commented that staff has improved the TRC process, but what was the reason for not getting comments from the CPPC; Senior Planner O'Hare stated that the committee was formed in 2009, explained the status of the committee members and stated that in the process of updating the plan a new committee would be formed. Chairman Williams opened the floor for the sign-ups who wished to speak.

Terri Pierce, 539 Old Whitfield Road, Hampstead, stated that the area is still an agricultural area that she and her husband own a piece of property in the area that has a USDA Farm Service registered number and wetland determinations; Mrs. Pierce stated that her concern was agenda item 6, the request for the zoning change, so she would hold her comments until that public hearing but, did want to make it known that there were at least three (3) registered farms in that area.

Senior Planner O'Hare explained that the applicant originally applied for a Conditional Rezoning but, staff advised that they could not recommend an approval because the request conflicted with the 2010 Pender County Comprehensive Plan Future Land Use Map. Chairman Williams asked staff if agenda item five (5) was not approved, could agenda item six (6) be approved. Director Breuer stated that if agenda item five (5) was denied staff would not recommend approving agenda item six (6). Director Breuer stated that staff was unaware of any registered farms and the Board should take the existing characteristics of the neighborhood into consideration. Vice-Chairman Fullerton stated that it would be useful to know the amount of acreage in regards to the farms and their location to the parcel that is being requested to rezone. Vice-Chairman Fullerton asked the applicant if he was aware of the farms; Andy Furr, applicant, stated that the properties surrounding the parcel in the request are zoned RP, Residential Performance and one (1) is zoned GB, General Business which are not zoned for farms, farms are allowed in the RA, Rural Agricultural zone. Vice-Chairman Fullerton asked if it was correct to say that all the registered farms mentioned were west of Old Whitfield and Machine Gun Road; Mr. Furr answered that he would assume that. Discussion ensued regarding the ingress and egress of the properties in the area. Mr. Furr stated that the easement for his parcel was located off of Machine Gun Road.

Joe Noble, 931 Old Whitfield Road, Hampstead, stated that Kevin Mills et al is mentioned as the owner but, he doesn't know who that is, is it appropriate to ask who he is; Director Breuer stated that he is the registered property owner. Mr. Noble asked if the owner needed to be present for this request; Vice-Chairman Fullerton explained that an agent can appear on behalf of the owner, the owner is only required to sign the application. Mr. Noble concluded by stating that the parcel did have designated wetlands and asked that the Board keep that into consideration when making their decision.

Due to no other sign-ups, Chairman Williams opened the floor for the Board's discussion. Due to no other comments or questions from the Board, Chairman Williams asked for a motion.

Vice-Chairman Fullerton made the motion to approve the request as presented; seconded by Board member Carter. Vice-Chairman Fullerton commented that his motion was based on the land uses of the surrounding properties, given testimony that determined the active farms are located across the road and the parcel identified in the request abuts a parcel that is currently zoned the same zone in which the applicant is seeking. The vote was unanimous.

6. Zoning Map Amendment:

Live Oak Development, applicant, on behalf of Kevin Mills et al, owner, requested the approval of a Zoning Map Amendment of one (1) tract totaling approximately 5.53 acres from RP, Residential Performance zoning district to GB, General Business zoning district. The subject property is located along the east side of Old Whitfield Road (SR 1726) and Machine Gun Road (private) approximately 1,200 feet west of US HWY 17 in the Topsail Township and may be further identified by Pender

County PIN: 4215-23-1857-0000. Senior Planner O'Hare presented and gave background information for agenda item six (6). Senior Planner O'Hare explained to the Board that the report was created based off of the 2010 Comprehensive Plan Future Land Use Map, but now that the Board has recommend approval of the amendment request, staff recommends approval of the rezoning request. Board member Baker commented that in the recommendation section of the staff report, Section 3.3.1 (E) of the Unified Development Ordinance is referenced and he has difficulty with the terminology, such as the word "substantial". Board member Baker stated that could not find where the word was defined in the document and asked staff to define the word. Senior Planner O'Hare stated that it meant staff found evidence to support the request; Board member Baker stated that in some areas of the document there were percentages followed by the word "substantial" but, in this case there was no percentages used; Senior Planner O'Hare suggested that in this particular case the word may have been used as an adjective not a specific quantity. Director Breuer stated that the word "substantial" is not defined in the ordinance, in the context that it was used; he would define it as in majority compliance as opposed to a minority of compliance. Chairman Williams opened the floor for the sign-ups who wished to speak.

Andy Furr, applicant, stated he had nothing else to add and was available to answer any questions. Brief discussion ensued regarding current businesses located in the area, connectivity to US HWY 17, the limits of commercial development due to the parcel having a septic system.

Terri Pierce, 539 Old Whitfield Road, Hampstead, request to know who the twelve (12) people were that made up the committee that was referenced earlier; Director Breuer stated that the committee was in relation to the request in agenda item five (5) but, staff will provide the information to her. Mrs. Pierce stated that she has concerns regarding traffic and new businesses in the area. Mrs. Pierce requested that the Board to deny the request.

Steven Crutchfield, 131 Oak Grove Drive, Hampstead, stated that he has concerns regarding the increase of traffic and that allowing a business in that area doesn't seem conducive to someone who lives there.

Due to no other sign-ups, Chairman Williams opened the floor for the Board's discussion. Vice-Chairman Fullerton commented that the parcel in question currently has a zoning that allows residential and some commercial uses, in every hearing the Board holds, the increase of traffic is always a concern of the people who live in the area, everyone including the Board have traffic concerns but, when development is done right, traffic can be managed.

Vice-Chairman Fullerton made the motion to approve the request as presented; seconded by Board member Baker. Chairman Williams commented that any plan submitted would be subject to traffic studies and would have to meet requirements set by the State. Bill McDow, WMPO, commented that the parcel was located in the WMPO's boundary so if it was developed it would be examined for things such as traffic impact studies. Mrs. Pierce asked if it was determined that the parcel was adjacent to a USDA farm would there be any other limitations; Chairman Williams stated that he was not sure, but staff would assure that the applicant did everything he was required to do prior to any approvals. The vote was four (4) in favor of the motion with one (1) opposed.

Chairman Williams called for a ten (10) minute recess
Chairman Williams called the meeting back to order at 9:03 pm.

7. Master Development Plan Revision and Preliminary Plat Phase II:

Ksade Ventures LLC, applicant, on behalf of Jeffery Beaudoin, owner, requested a revision to the previously approved Master Development Plan (Case 10017) and Preliminary Plat for Phase II of the mixed-use development proposal known as Hampstead Commons. Specifically, this request for Phase II is to add seventy-two (72) single-family residential lots on ± 24.00 acres to the existing Master

Development Plan with the approved commercial use located on ± 4.55 acres. The subject properties are zoned PD, Planned Development zoning district. The properties are located to the north east of the residential subdivision known as Villages at Olde Point, south east of Transfer Station Road (SR 1695), south of the residential subdivision known as Belvedere, and west of Country Club Drive (SR 1565) in the Topsail Township and may be further identified by Pender County PINs: 4203-35-3583-0000 and 4203-26-9269-0000. Senior Planner O'Hare presented and gave background information for agenda item seven (7). Vice-Chairman Fullerton asked if the two (2) conditions listed in the staff report would take care of any inconsistencies; Senior Planner O'Hare answered yes. Chairman Williams asked during the bonding of the road, was it taken into account the dramatic cost increase over the past couple of years; Director Breuer stated that they were working directly with the County due to a project the county has moving along parallel to this road construction, there was no mechanism in place to address inflation cost, that the County was confident the road would be completed in a timely manner. Senior Planner O'Hare recited the conditions that staff were recommending and reminded the Board that staff was seeking guidance as to when during the development should the condition be applied. Board member Baker commented that he noticed in the report of the TRC comments Pender County Schools had no response, feels their participation at the TRC meetings is kind of sporadic, and that they are reactive instead of proactive. Chairman Williams opened the floor for the sign-ups who wished to speak.

Bill McDow, WMPO, commented that the project was reviewed by the WMPO during the TRC process, many of the comments given by the WMPO have been correct by the engineer and the applicant and the corrections have been shown on the revised plan; the TIA is in process and the scope letter has been issued. Mr. McDow further explained the outline of a scope letter. Director Breuer commented that staff would work with the applicant on the requirement of the TIA.

Allison Engebretson, Paramounte Engineering, Inc. stated that the engineer, applicant, and owner were available to answer any questions, staff had done a really good job of summarizing everything. Ms. Engebretson stated that the highlighted target was retirees, feels this development will help the existing community not take away from it and will contribute to Pender County's tax base. Chairman Williams asked what type of buffer would be in place along the transfer station; Ms. Engebretson answered a type C buffer that would have a fence and plants. Discussion ensued on various details such as buffers, roads, and setbacks of the proposed plan which were included in the staff report.

Due to no other sign-ups, Chairman Williams opened the floor for the Board's discussion. Director Breuer commented that clarification on the conditions was needed, that he recommended that the Board allow a Master and Preliminary plan to move forward through the process, which will allow the applicant to do site work, but would not be able to record lots until Transfer Station Road is constructed.

Vice-Chairman Fullerton made the motion to approve the request with the following two (2) conditions (1.) Completion of the proposed Transfer Station Road extension is required before Final Plat (2.) Completion of the water line extending from US HWY 17 to Hawksbill Cove has been completed (DEH Serial No: 14-00329) ; seconded by Board member Baker. The vote was unanimous.

8. Zoning Map Amendment:

Stroud Engineering, applicant, on behalf of Jack Stocks, owner, requested the approval of a Zoning Map Amendment for approximately 11.18 acres of one (1) tract totaling approximately 162.72 acres from the PD, Planned Development zoning district to the RP, Residential Performance zoning district. The portion of the subject property is located on the south and east of Carver Road (SR 1437) approximately 2,880 feet west of the intersection with NC 133 and Carver Road (SR 1437) in the Rocky Point Township and may be further identified by Pender County PIN: 3223-53-8360-0000. Planner Fiester presented and gave background information for agenda item eight (8). Jimmy

Fentress, Stroud Engineering, applicant, explained the reason for the request was to develop a residential development. There were no sign-ups or Board discussion. Vice-Chairman Fullerton made the motion to approve the request as presented; seconded by Board member Baker. The vote was unanimous.

9. Zoning Text Amendment:

Stroud Engineering, applicant, requested a Zoning Text Amendment to the Pender County Unified Development Ordinance, Section 5.2.3 Table of Permitted Uses. Specifically, the amendment proposed is to allow borrow pit sand mining (NAICS 212321) as an allowable use in the PD, Planned Development zoning district in conjunction with an approved Master Development Plan. Senior Planner O'Hare presented and gave background information for agenda item nine (9). Vice-Chairman Fullerton asked at what point other agencies get involved; Director Breuer answered at the point of one (1) acre. Vice-Chairman asked if staff knew of any other areas that were allowing this and if they had experienced any issues; Director Breuer stated that to his knowledge the request was unique. Discussion ensued on the mining area becoming an amenity for the development and the benefits of having needed dirt already onsite. Jimmy Fentress, Stroud Engineering, applicant, stated that staff did a good job in explaining the request so he had nothing else to add. Chairman Williams commented that simplified language should be crafted and added to notifications for Master Development Plans when the applicant wishes to have a mine. There were no sign-ups or further questions or discussion from the Board.

Vice-Chairman Fullerton made the motion to approve the request as presented; seconded by Board member Baker. The vote was unanimous.

(Public Hearings Closed)

10. Discussion Items:

a. Planning Staff Items:

- i. Zoning Text Amendment Update: Senior Planner O'Hare stated that the text amendment sub-committee had been formed and working on the massive amendment that was discussed at the last work session, staff hoped to present them to the Board at the August 2, 2016 meeting. Senior Planner O'Hare stated that staff had been working with the Fire Marshall and EMS staff on cul de sac requirements, recommendations from them would be presented to the Board for the amendment.
- ii. Comprehensive Land Use Plan Update: Director Breuer stated that he would present a contract and a revised scope of work to the Board of Commissioners at their second August meeting and that staff is moving forward. Chairman Williams asked if during the plan update a clear look would be taken at the lines; Director Breuer answered yes.
- iii. TRC Update: Senior Planner O'Hare gave a brief overview of the TRC memo provided to the Board which listed the projects that would be for review at the July TRC meeting.

b. Planning Board Members Items:

Vice-Chairman Fullerton asked what the rules were for abstaining from voting on the adoption of minutes; Attorney Thurman answered that a Board member could vote to adopt the minutes even if they didn't attend the meeting. Vice-Chairman Fullerton commented to sit and not have a motion is uncomfortable, so he will always make a motion, but if anyone else wishes to make one please do. Chairman Williams stated that he can and will make motions but, would prefer not to as the Chair. Chairman Williams commented that motions get conversations going. Attorney Thurman advised the Board that a Chair can make a motion, second a motion, and vote for or against it. Chairman Williams encouraged the Board to familiarize themselves with the areas of items on the agenda. Board member Baker suggested that motions should include conditions if any.

11. Next Meeting: August 2, 2016

12. Adjournment: 10:40 pm

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