

Pender County Planning and Community Development

Planning Division

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MINUTES

Pender County Planning Board Meeting Wednesday, September 7, 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 7:12 pm

Roll Call: Chairman Williams

Pender County Planning Board Members:

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

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

(Public Hearings Open)

4. Conditional Zoning Map Amendment: (Tabled from August 2, 2016)

DRC Hampstead, LLC., applicant, on behalf of Jesse F. Lea SR et al, owner, requested approval of a Conditional Zoning Map Amendment for three (3) tracts totaling approximately 78.39 acres from RP, Residential Performance zoning district to RM- CD 2, Residential Mixed Conditional zoning district 2. The request is to allow only the following NAICS uses: Single Family Detached Homes (NAICS 236117) and Multi-Family Housing (NAICS 236116) in a proposed residential mixed subdivision project to be called Sparrows Bend. The project proposal consists of 264 apartment units and 135 single family homes with associated neighborhood amenities. The subject property is located on the north side of US HWY 17 and may also be accessed off of the east side of Hoover Road (SR 1569). The subject property is in the Topsail Township and may be further identified by Pender County PINs: 3293-01-5693-0000, 3293-11-0659-0000 and 3293-01-9640-0000. Planner Fiester presented, gave background information, and described the changes in the plan that the applicant had made based off of the Board's recommendations, for agenda item four (4).

Allison Engebretson, Paramounte Engineering, gave a presentation addressing the changes made to the plan in regards to removing the existing easement known as Old Marsh Road from the plan and the Board's comments and recommendations from the last meeting, the following items were presented:

1. North-South Collector Road, the applicants provided a realigned Road C, provided the stub out and shared driveways.
2. Proposed Exceptional or Superior Designed Elements were shown on the plan verses just listed in the narrative and thoroughly discussed in detail during the presentation.

3. Justification for the requested density increase was presented based on policies and ordinances that the applicant felt supported the proposed project.

Board member McClammy - Asked for staff to summarize the three (3) conditions recommended and listed in the staff report.

Planner Fiester - Summarized the conditions using examples from the applicant's presentation regarding how the applicant plans to meet the requirements and stated that it would be up to the Board to approve and/or add additional conditions.

Michael Buttitta, 104 Kingsport Drive, Hampstead, stated that he still had concerns regarding drainage and would request assurance of the engineer's qualifications that will be working on the project; growth is too much too fast; requested that no extra density be approved, and that construction traffic not be allowed to use Hoover Road.

Ashley Freeman, 102 Kingsport Drive, Hampstead, not sure if Road C meets the requirements, doesn't seem like the applicant made much changes to it, would like to see the results of the school study, feels that the schools are already burdened. Mr. Freeman asked the Board to consider not approving additional density, urged the Board to take a look at the traffic on Hoover Road at 8:00 am in the mornings, and to consider that there is no infrastructure available for present residents.

Mike Nadeau, Creative Commercial Properties, commented that there was no interconnectivity provided to other tracts adjacent to the proposed project, such as an adjacent property that is owned by a client of his. Mr. Nadeau requested that the applicants be required to connect to his client's property for future interconnectivity as outlined in the Pender County Unified Development Ordinance.

Discussion ensued between the Board and staff regarding interconnectivity. Planner Fiester stated that multiple discussions had taken place with the applicant and the requirements of the ordinance have been met. Senior Planner Crowe stated that due to environmental features of Mr. Bradshaw's property a connection would not be reasonable, Mrs. Crowe further explained the provision of the ordinance referenced by Mr. Nadeau, stating that "reasonable connectivity has to be provided" and the applicant has done that. Board member McClammy asked if Mr. Nadeau's request was valid and could the Board add an additional condition that connectivity must be provided to Mr. Bradshaw's property; Director Breuer stated that it is appropriate for conditions to be applied to the rezoning application, he has not directly worked with the applicant so he would defer the question to staff.

D Logan, applicant, commented that access has been provided to two major corridors, he has gone over, above, and beyond to provide reasonable interconnectivity for the proposed project.

Attorney Thurman – asked the applicant if they were aware that if the request was approved, the items presented would have to implement; Mr. Logan stated that he understood.

There were no other sign-ups, questions, or discussion, Chairman Williams asked for a motion. No motion was made, Chairman Williams asked Attorney Thurman for guidance. Attorney Thurman stated that the Board could act on the request later in the current meeting or at the next meeting.

Board member Nalee made the motion to deny the requested Conditional Zoning Map Amendment; the motioned died due to the lack of a second.

Chairman Williams tabled agenda item four (4) until a future time and date; Attorney Thurman advised the Board to make a motion stating that the item would be tabled until the next meeting, if that was the Board's intention by saying a future time and date.

Mr. Logan, applicant, asked what were the issues, they had done everything that was asked of them at the last meeting, staff supported the plan, so they needed some direction from the Planning Board.

Board member Nalee commented that her issues were traffic, density, and simply felt like it was a good plan, but not for the piece of land it was being presented for.

Attorney Thurman stated that the ordinance states the Board has seventy-five (75) days to act on a request, after the October Planning Board meeting the request will precede to the Board of County Commissioners with or without a recommendation from the Planning Board.

Board member McClammy suggested that out of respect for the applicant, it would be more appropriate for the Board members to make comments regarding the case at the end of the meeting during their discussion items.

5. Master Development Plan Revision:

Signature Top Sail NC, Ltd. applicant, on behalf of Capstone Ventures LLC., Ruth C. Kalmar Lewis et al, J L Morris Enterprises of Hampstead Inc., and Morris Jeffrey et al, owners, requested a revision to the previously approved Master Development Plan for the mixed use development known as Wyndwater. Specifically this request is to; increase the overall project area from ± 204.07 acres to ± 221.42 acres and increase the total units from 500 units to 529 units. The subject properties are zoned PD, Planned Development zoning district. The properties are located to the east of US HWY 17 north of Doral Drive (SR 1693), northwest of Sloop Point Loop Road (SR 1563), south and east of the Cardinal Acres Lane (private) in the Topsail Township. The properties may be further identified by Pender County PINs; 4213-59-0181-0000, 4214-04-6027-0000, 4214-12-3906-0000, 4214-22-7567-0000, and a portion of 4214-50-8387-0000. Senior Planner Crowe presented and gave background information for agenda item five (5). Senior Planner Crowe recited the two (2) new conditions that staff proposed. Board member McClammy asked if the applicant agreed with the new conditions; Senior Planner Crowe stated that it was her understanding that they agreed.

Mike Pollak, Developer, gave an overview of the plan's revisions and stated that they did agree with the conditions, but they thought the intent was for them to make a connection available to Amanda Lane not actually connect to it being that it is a private road and they cannot connect to a road that they do not own. Senior Planner Crowe stated that Mr. Pollak was correct that staff should have clarified that the intent was to create connection to the property; if it was the discretion of the Board staff would update the language of the condition. Board member McClammy commented that if the condition was being placed on the project the language needed to be corrected. Director Breuer commented that the language should state that the project will have to provide a stub into Amanda Lane.

Karna Godridge, 113 Olde Point Road, Hampstead, stated that she owns the property located at 623 Outrigger Court and has concerns about the preservation of the Topsail Greens community, density and drainage impacts from the new development, decrease of home values, quality of life for current longtime residents, traffic impacts, and the use of Champion Drive which is a private road owned by Topsail Greens. Mrs. Godridge commented that she hopes the Topsail Greens community and the Developers of Wyndwater will make it possible to block the use of Champion Drive.

John Barfield, 603 Harpoon Court, Hampstead, stated that his main concern is drainage, that there was a drainage pond, but it has been filled with dirt so now three (3) properties that about the development are flooded

Mr. Pollak – Explained that the area in which Mr. Barfield is referring to is in the construction phase, the water will be collected once the storm drains are put in and then the water will be carried to the retention ponds, unfortunately the drainage system was not in place during the recent storm. Mr. Pollak stated that lots of money has been spent to make sure that there is drainage.

Board member McClammy made the motion to approve the requested Master Development Plan Revision as presented with the existing eight (8) conditions and the following additional two (2) conditions 1. Provide sidewalks on private roadways located within Phases VI and VII. 2. Provide a stub out to Amanda Lane for future connectivity; seconded by Board member Edens. The vote was unanimous.

Chairman Williams called for a recess at 9:05 pm.

Chairman Williams called the meeting back to order at 9:13 pm.

6. Comprehensive Land Use Plan Amendment:

Creative Commercial Properties, applicant, on behalf of P.H. LANCO, Inc., owner, requested approval of an amendment to the 2010 Pender County Comprehensive Plan Future Land Use Map for one (1) tract totaling approximately 8.42 acres from Rural Growth to Mixed Use future land use designation. The subject property is located along the west side of US HWY 17 and to the south of Pinnacle Parkway (private), directly northwest of the US HWY 17 intersection with Champion Drive (private) in the Topsail Township and may be further identified by Pender County PIN: 4204-65-5211-0000. Senior Planner Crowe presented and gave background information for agenda item six (6). Board member McClammy asked for clarification on the connection between agenda item six (6) and seven (7), Senior Planner Crowe explained that the applicant originally met with staff to request a rezoning, the request was to rezone the property from PD, Planned Development to GB, General Business, but that request would not be consistent with the Comprehensive Land Use plan, staff then recommended that the applicant request an amendment to the current land use designation of the Comprehensive Land Use Plan. Discussion ensued regarding the land designations and how they were determined, Senior Planner Crowe stated that staff has researched the determinations and as far as they can tell they are based on general areas not parcel specific.

Board member McClammy made the motion to approve the requested Comprehensive Land Use Plan Amendment as presented; seconded by Board member Edens. The vote was four (4) in favor with Board member Nalee abstaining from voting.

7. Zoning Map Amendment:

Creative Commercial Properties, applicant, on behalf of P.H. LANCO Inc., owner, requested approval of zoning map amendment to the Pender County Unified Development Ordinance for one (1) tract totaling approximately 8.42 acres from the PD, Planned Development zoning district to the GB, General Business zoning district. The subject property is located along the west side of US HWY 17 and to the south of Pinnacle Parkway (private), directly northwest of the US HWY 17 intersection with Champion Drive (private) in the Topsail Township and may be further identified by Pender County PIN: 4204-65-5211-0000. Senior Planner Crowe presented and gave background information for agenda item seven (7). Board member Edens asked for a brief overview of the PD, Planned Development and the GB, General Business zoning districts; Senior Planner Crowe provided the Board with an overview of the two (2) districts.

Board member McClammy made the motion to approve the requested Zoning Map Amendment; the motion died due to the lack of a second. Board member Edens made the motion to deny the requested Zoning Map Amendment; seconded by Board member Nalee. The vote was three (3) in favor with two (2) opposed.

8. Zoning Text Amendment:

Marsh Creek Investments, LLC, applicant, requested a Zoning Text Amendment to the Pender County Unified Development Ordinance, Section 5.2.3 Table of Permitted Uses. Specifically, the proposal is to amend the Miscellaneous Use section to allow dry stacks and boat storage in the GB, General Business zoning district and to add these definitions to Appendix A. Planner Fiester presented and gave background information for agenda item eight (8). Discussion ensued regarding the request if approved would be a by right use for any property zoned GB, General Business. Board member Edens asked what was the meaning of the letter "D" on the Table of Permitted Uses; Director Breuer stated that it meant there were additional design standards that would be required for the use. Board member Edens asked if the Board could recommend additional conditions or standards; Director Breuer answered yes. The Board held a brief discussion regarding adding additional conditions or standards.

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

9. Zoning Text Amendment:

Pender County, applicant, requested a Zoning Text Amendment to the Pender County Unified Development Ordinance, Section 7.5 Street Design. Specifically, the proposal is to amend requirements for permanent and temporary dead end streets. Planner Fiester presented and gave background information for agenda item nine (9).

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

10. Zoning Text Amendment:

Pender County, applicant, requested a Zoning Text Amendment to the Pender County Unified Development Ordinance, Section 7.5.1 Street Design. Specifically, the proposal is to add objective criteria for administrative flexibility for the roadway design requirements. Senior Planner Crowe presented and gave background information for agenda item ten (10). Senior Planner Crowe explained that staff is only recommending approval of the drafted language for Section 7.5.1 Public and Private Street Design A.1.a., not A.1.b. unless it is the Boards will to include A.1.b. Director Breuer explained that staff has worked with the Text Amendment Sub-committee and the building community and believes outside of the wetlands standards they are in agreement with the language and standards that staff has presented.

Cameron Moore, Executive Officer and Chief Lobbyist, Wilmington Cape Fear Home Owner's Association, gave an overview of how the requested Zoning Text amendment came about, Mr. Moore commented that he would agree that everyone is in concurrence with what is being presented with the exception of the wetlands topic, which is a two part issue, everyone is in concurrence with the standards list for onsite wetlands, the issue is having exceptions or standards for offsite wetlands. Mr. Moore explained that through talking with staff, the building community and other stakeholders additional language was created for A.1.b. that included standards that could be used to determine the existence of wetlands on offsite properties that would be disturbed by a road connection. Director Breuer stated that the language was provided to the Board during their work session. Mr. Moore requested that the Board approve the amendment language for A.1.a. that staff presented and also to entertain the request to add the language for A.1.b. that was provided to the Board during their work session. Brief discussion ensued to clarify the need to identify wetlands on offsite properties and to have standards to deviate from the requirements based on the conditions of offsite properties. Board member McClammy asked if there was a consensus from the building community of what they felt would be a solution. Attorney Thurman commented that they have said they don't want to spend the money to build anymore roads then they have to, the building community stated that the Army Corps of Engineers would not allow a road to be built in the wetlands, so it was

suggested that if they could provide evidence of that they would not have to build a road, but according to the Army Corps of Engineers they will not state that a road cannot be built they will just advise that it will be really expensive to do so; the County doesn't want anyone to spend unnecessary money nor do we want roads that truly go to nowhere, but the road to nowhere today may not be that in thirty years, planning for the future is why the policies are in place. Mr. Moore commented that he agreed, the roads could be built, but the price of housing would increase.

Jeff Morris, 659 Red Fox Trail, Hampstead, commented that the meetings he has attended in regards to the matter have been very informative, but he was confused as to how the streets were created on the Collector Street Plan map. Director Breuer advised Mr. Morris to follow up with staff on a one to one basis to discuss his question. Mr. Morris asked for clarification on the connection of a road for another project, Director Breuer again advised Mr. Morris to contact staff to discuss individual projects.

Tim Clinkscales, Engineer, commented that the Army Corps of Engineering does deny permits they will not allow to build what you want to build so the statement made earlier was not true. Mr. Clinkscales stated that he was frustrated because it was stated in the meetings regarding the matter that the discussion of money was not allowed, but now it was being discussed on a County level, so that was disappointing. Mr. Clinkscales stated that the main concern with building a collector road to stub to an adjacent property that has wetlands is the fact that it will not be collecting anything because it will not ever be built, that is why staff and the building community have worked together to provide language for the requested text amendment. Lengthy discussion ensued regarding the processes of the Army Corps of Engineering. Mr. Clinkscales requested that the Board approve the Zoning Text Amendment as presented and add the language for A.1.b. that was provided to the Board during their work session.

D Logan, Developer, commented that he supported staffs onsite requirements, but agreed that there needed to be requirements that pertain to the offsite issue.

The Board held a discussion to clarify the purpose of the request, review the proposed language for A.1.b. that was provided to the Board during their work session and options of what type of action they could take. Director Breuer explained the options that were available for the Board and commented that it was ultimately up to the Board to decide on how to move forward. The Board was in agreement with the proposed language for A.1.a., and that they needed to further review the proposed language for A.1.b. The Board along with staff reviewed in detail items two (2) through six (6) listed under A.1.b. of the version provided by staff and held a separate discussion regarding A.1.b.1.a. since all stakeholders were not in agreeance with staff's language and had presented their own. Director Breuer stated that if section A.1.b.1.a of staff's proposed language was changed to read as, *Wetlands impacted in excess of 1.0 acres on site that are directly caused by the required collector road corridor shall warrant administrative review for an exception when no other alignment can be made on site without equal or greater wetland impacts*, it would then be the same language that was presented to the Board during their work session. Board member McClammy stated that the Board should not be editing language and suggested moving forward with the exception of section A.1.b.1.a, so that staff could have an opportunity to edit the language and then present it to the Board. Chairman Williams stated that if it was just a couple of words that needed to be edited there was no reason to prolong the process. Further discussion ensued regarding dissecting and editing the language of section A.1.b.1.a. Board members discussed their options of moving forward.

Board member Edens made the motion to approve the requested Zoning Text Amendment as presented and to include the proposed language for A.1.b; seconded by Board member Carter. Board member McClammy stated that he was uncomfortable approving language that was not presented to the Board in the normal format and procedure. Board member Edens stated that the language created by staff was presented in the meeting packets. For the clarity Board member Edens withdrew

her motion and stated a new motion. Board member Edens made the motion to approve the requested Zoning Text Amendment as presented and to include the proposed language for A.1.b from the staff report, with the language in section A.1.b.1.a to read as *Wetlands impacted in excess of 1.0 acres on site that are directly caused by the required collector road corridor shall warrant administrative review for an exception when no other alignment can be made on site without equal or greater wetland impacts*; seconded by Board member Carter. The vote was unanimous.

Attorney Thurman advised the Board that there needed to be a motion made to proceed with the meeting, it was past 11:00 pm and the Board's statement states that the meetings end at 11:00 pm.

Board member Edens made a motion to extend the meeting beyond 11:00 pm to complete the agenda; seconded by Board member Carter. The vote was unanimous.

(Public Hearings Closed)

11. Discussion Items:

a. Planning Staff Items:

- i. TRC Update: Director Breuer stated that the update was provided in the meeting packets and that all information was available on the website.
- ii. Comprehensive Plan: Director Breuer stated that he would present the contract for consideration to the Board of Commissioners at their September 19, 2016 meeting and will be working to form a steering committee.
- iii. Announcements: Director Breuer reminded the Board to contact staff if they were interested in attending the subdivision workshop, he did confirm that Board member Edens wanted to attend.

b. Planning Board Members Items:

Board members discussed agenda item four (4) with the applicant D Logan. The Board felt that the density, Collector Street, and traffic were the issues. Mr. Logan commented that the project was recommended for approval twice by staff that the County needed to have a multifamily development ordinance.

12. Next Meeting: October 4, 2016

13. Adjournment: 11:30 pm