

# Pender County Planning and Community Development

## Planning Division

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## MINUTES

### Pender County Planning Board Meeting Tuesday, October 4, 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 7:01 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 McClammy. The vote was unanimous.
- 2. Adoption of the Minutes: (September 7, 2016 Work Session and Meeting)** Board member Edens made the motion to adopt the minutes as presented; seconded by Board member Carter. The vote to approve the Work Session minutes was four (4) in favor with Board member McClammy abstaining from the vote due to his absence. The vote to approve the Meeting minutes was unanimous.
- 3. Public Comment:** None
- 4. WMPO Presentation:**  
Josh Lopez, (Associate Transportation Planner) with the Wilmington Urban Area Metropolitan Planning Organization provided the Board with an update on the Cape Fear Transportation 2040 Metropolitan Transportation Plan implementation since adoption on November 18, 2015 and the role of the WMPO in Pender County's transportation planning. Mr. Lopez's presentation included the WMPO History and Responsibilities, Cape Fear Transportation 2040 – Project List and Funding Proposal, and the role of the Planning Board to consider the plan in development review, provide feedback to WMPO, and participate in Cape Fear Transportation 2045. Chairman Williams thanked Mr. Lopez for his presentation.

*\*(Public Hearings Open)\**

**5. Conditional Zoning Map Amendment:**

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 gave an overview of the previous Public Hearings and stated that in accordance with the Pender County Unified Development Ordinance, the request would move forward to the Board of Commissioners with or without a recommendation from the Planning Board. Planner Fiester gave an overview of the project and provided an update of the changes made to the plan.

Board member Edens – Asked for clarification on Old Marsh Road; Planner Fiester explained that it is an access easement and the Developer plans to remove it from his project and exchange it to the ten (10) properties that currently use it for access.

Vice-Chairman Fullerton – Asked if the previous requested eight (8) units per acre was the maximum amount the code allowed; Planner Fiester explained that it was the maximum the applicant could request based on exceptional design and being consistent with the Comprehensive Land Use Plan. Brief discussion ensued regarding what is stated in the code for density allowance in the Residential Mix (RM) Zoning District and allowance of increased density when applicants show the use of exceptional design in their projects.

Vice-Chairman Fullerton – Stated that there is no language in the Pender County Unified Development Ordinance that specifies the maximum increase of density allowed or how to determine an allowable increase, the numbers have to be established so that when requests are made the Board has a code to follow. Senior Planner Crowe stated that staff had received an application for a Zoning Text Amendment to address the standards for increased density request and that would be presented to the Board at their November meeting.

Ashley Freeman, 102 Kingsport Drive, Hampstead, thanked the Board for their time, agreed with what was said at the last meeting by a Board member “Beautiful plan, beautiful design, but probably not for that tract of land”, have not seen any evidence from the government that the infrastructure can withstand such a large development, still have not heard any comments from the schools, or public utilities.

Allison Engebretson, Paramounte Engineering, commented that there was existing water and sewer, the developer would extend those lines into the development. Ms. Engebretson stated that she had no other new information, but was available to answer any questions.

Vice-Chairman Fullerton – Thanked Mr. Freeman for speaking and wanted to let him know that in regards to schools, there was nothing in the Pender County Unified Development Ordinance that requires a land developer to show how the development will impact schools and that the permitting process is in place to make sure there are utilities in place.

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

#### **6. Master Development Plan and Preliminary Plat:**

Stroud Engineering, P.A., applicant, on behalf of Pender Land Holdings, Inc., owner, requested approval of a Master Development Plan and Preliminary Plat of Phase I for a mixed-use development proposal on four (4) tracts totaling approximately 163.5 acres. Phase I includes; one hundred twenty-one (121) single family residential lots. Future development includes; sixteen (16) townhouse units, one hundred sixty (160) multifamily units, ± thirty-two (32) acres of future residential development, ± nineteen (19) acres future commercial development, and ± (forty-two) 42.2 acres of park land for dedication to the County. The subject properties are located along the west side of Country Club Drive (SR 1565), along the south east side of US HWY 17, south of Hampstead Kiwanis Park and north of the residential subdivision known as Belvedere Plantation. The subject properties

are in the Topsail Township and may be further identified by Pender County PINs; 4204-61-5445-0000, 4204-51-3743-0000, 4204-41-7997-0000 and 4204-52-2665-0000. Senior Planner Crowe presented and gave background information for agenda item six (6).

Chairman Williams – Asked if the park facilities would be a part of the open space for other phases of the project that are not included in the present request; Senior Planner Crowe answered that she believed the applicant would further define the open space once the additional phases are designed.

Senior Planner Crowe – Explained the proposed development's road network and stated that staff recommends a roadway connection to adjacent and existing Red Bird Lane be provided.

Board member McClammy – Stated that staff's proposed conditions one and two were prevalent to the ordinance, but he had hesitations about condition three, seems like it serves as informational purpose and not something that the Planning Board could require. Director Breuer stated that he would defer to the Attorney to answer if the requested condition is appropriate. Attorney Thurman stated that dedication of land can be offered, but the County doesn't have to accept and that the Board of Commissioners solely accepts or declines the offers. Chairman Williams asked if the Planning Board could make a recommendation that the developer offer to dedicate the property, Attorney Thurman answered yes. Board member McClammy stated for the purpose of clarity and moving forward, there were two (2) conditions and one (1) recommendation for the Board to consider, Attorney Thurman answered yes.

Chairman Williams – Asked in regards to the condition that connection be made to Red Bird Lane, Is the road private? Is it a dead end or is it a hammer head? Senior Planner Crowe and Director Breuer commented that it was a dead end road. Senior Planner Crowe stated that the applicant did provide evidence of rights to the road and was available to answer any questions.

Jimmy Fentress, Stroud Engineering, thanked the Board for their time and Mrs. Crowe for a good presentation of the project. Mr. Fentress stated that conditions two (2) and three (3) were fine, but there was not an agreeance on condition one (1), he had an issue with connecting to a dead end road that had established longtime residents and that the products that would be built were different than what was existing on Red Bird Lane. Mr. Fentress suggested that in lieu of a connection, the applicant proposes a hammerhead turn around and a pedestrian connection, Mr. Fentress stated that the Fire Marshal agreed with the applicant's proposal when it was suggested at the TRC meeting. Board member Edens asked if condition one (1) was due to the requirement of connectivity in the ordinance, Senior Planner Crowe answered yes and the transportation policies. Brief discussion ensued on connectivity requirements, policies that support staff's recommended condition, locations of the proposed pedestrian accesses, and existing wetlands on the property.

James Schiff, 156 Red Bird Lane, Hampstead, spoke in opposition of connecting Red Bird Lane to the new development and had concerns regarding drainage.

Mike Savalli, 158 Red Bird Lane, Hampstead, major concern was drainage, flooding is already an issue and is opposed to a connection to Red Bird Lane.

Kelsey Dietzen, 2645 Country Club Road, Hampstead, concerned about drainage, just moved into the home was told the lot beside hers would never be built on due to it would not perk, there is a house being built and now her yard stays flooded, there should not be any more building allowed in the area because it is causing the roads to flood.

Joyce Owens, 107 Dolphin Circle, Hampstead, stated that she was present on her own behalf and members of the Homeowner's Association of Belvedere Plantation. Ms. Owens stated that they were concerned about the additional traffic that would be added to Country Club Road, wondered how and

if the plan to widen Country Club Road and install bike/pedestrian lanes would be affected by the proposed development, concern about flooding and drainage issues. Ms. Owens stated that she was confused, according to the Technical Review Committee responses the Flood Plain Administrator commented that the area was not in a flood area, based on information from 2007, and believes there has been more recent information published regarding flood zones.

Janice Reitzell, 2571 Country Club Road, Hampstead, stated that her concern was drainage, that about nine (9) months out of the year her backyard is under about three (3) feet of water, does not want any more water runoff due to this new development. Ms. Reitzell provided pictures of her yard and a map of the wetlands. Ms. Reitzell commented that the County did not have a drainage plan for the existing issues and had great concerns of additional problems being caused by development.

Chairman Williams – Commented that the Board had no authority to control stormwater runoff that it is controlled by the State, he realizes the drainage issue, however most of the subdivisions in the area are over forty (40) years old and drainage plans are handled differently now verses then.

Kelsey Dietzen, 2645 Country Club Road, Hampstead, asked if the Board approved building on lots that do not perk; Chairman Williams stated that the Pender County Environmental Health Department issues septic system permits.

Vice-Chairman Fullerton – Stated that unfortunately the County did not have a regulatory department for drainage issues.

Jimmy Fentress, Stroud Engineering, stated that a Traffic Impact Analysis was required, it was completed and submitted to NCDOT for their approval, at this time it is preliminary, but there are required improvements for Phase I that include the following: a turn lane at Country Club Road and Sloop Point Road, and a decel lane; there will be other improvements required for future Phases that will focus on access to US HWY 17. Mr. Fentress made the following comments to address the drainage concerns: the area has probably had seventy (70) inches of rain within the year versus the average fifty-five (55) inches; the subdivisions such as Belvedere that were planned in the eighties (80) were not required to have storm water permits; current subdivisions are required to have such permits from the State and to follow the current regulations of the County; the proposed project is low density, will include storm water ponds. Mr. Fentress further described the drainage plans, pointing out where new drainage ditches would be installed.

Janice Reitzell, 2571 Country Club Road, Hampstead, questioned the location of the ditch; Director Breuer gave the Board a brief history of Ms. Reitzell's drainage issues and stated that he believed Mr. Fentress was trying to address some of the solutions that he has put together to apply to the proposed plan in order to try and address the existing situation on the lots that were platted prior to any stormwater requirements in the State or County. Mr. Fentress explained to Ms. Reitzell where the ditch would be located and how it would be designed to relieve the flooding on her property.

Jimmy Fentress, Stroud Engineering, addressed the comments regarding the land not perking, stating that most of the property would not perk, they were not proposing to use septic systems; they were proposing to connect to off-site sewer.

Joyce Owens, 107 Dolphin Circle, Hampstead, asked that if the plan was approved by the Board, does the developer have a timeframe to act on it, will the approval expire, or does it remain approved for perpetuity? Director Breuer stated that once approved the applicant had two (2) years to act, once a Phase is recorded the Master Development plan stands as approved, any revisions to the plan are required to be presented to the Board for approval. Discussion ensued regarding the development process.

William Beckmann, 120 Mulberry Circle, Hampstead, concerns regarding the possibility of construction traffic using Bluebird Land and or Azalea Drive, process of notifying residents of new developments, and only having a ten (10) foot green space buffer between the properties on Mulberry Circle and the proposed development, but other properties have a thirty (30) foot buffer. Senior Planner Crowe explained the following: once the Planning Department receives a complete and valid application, State statutes require that notification be sent to adjoining property owners, legal notices are ran in the local paper for two (2) weeks, and staff also places a notification sign on the property; the applicant can choose which C buffer type, they chose C1 for that area, a detailed description of the C1 buffer type which meets the County's requirements for buffering between residential uses within fifty (50) feet of each other, was given; Azalea Drive is a public road, to a certain point, the applicant can use the public portion if they wish to do so, the Board cannot say who can and cannot use a public road. Mr. Beckmann asked if the applicant could use Mulberry Circle since it was a private road, Attorney Thurman stated that without reading the property deed, he did not know if the applicant had rights to the road. Senior Planner Crowe stated that the applicant had submitted evidence that they do have rights to the roads. Mr. Beckmann stated that he was against the proposal and asked the Board to consider the possibility of a child being run over by construction traffic.

Jimmy Fentress, Stroud Engineering, the developer does have rights to Mulberry Circle, however it would be out of the way for construction traffic to use for access to the development site, would be agreeable to any dialogue to limit or prohibit construction traffic on Mulberry Circle.

There were no additional sign-ups or questions. The Board held a brief discussion regarding the Board's authority as to placing additional conditions and the Board's options to move forward with approving the request without the suggested conditions by staff. Vice-Chairman Fullerton stated that he would like to address an earlier question regarding the flood maps and flood zones, are the flood zones the same on the proposed maps and the 2007 maps that were used; Senior Planner Crowe stated that neither map shows flood zones on the property, understands that the property may flood, but there is no regulated flood zones on the FEMA maps, staff does review projects based on the new flood maps, but only the 2007 maps are of record at the moment. Vice-Chairman Fullerton concluded by saying that staff has to use the maps that are approved, new maps are coming, but they cannot be used as the map of record until they are approved.

Board member McClammy made the motion to approve the requested Master Development Plan and Preliminary Plat with conditions one (1) and two (2) that are recommended by staff and outlined in the staff report and the recommendation for the applicant to continue to work toward the park dedication; seconded by Vice-Chairman Fullerton. The vote was unanimous.

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

Bill Clark Homes, applicant, on behalf of LaBrenda Hurst Haynes et al, owner, requested approval of a Zoning Map Amendment for 4.03 acres of a portion of one (1) tract totaling approximately 7.36 acres from GB, General Business zoning district to RP, Residential Performance zoning district. The subject properties are located to the west of US HWY 17 and approximately 920 feet to the north of the intersection of US HWY 17 and Williams Store Road (SR 1568). The subject property is located in the Topsail Township and may be further identified by Pender County PIN: 3293-43-3901-0000. Planner Fiester presented and gave background information for agenda item seven (7).

Chairman Williams – How is the property accessed? Senior Planner Crowe stated that there was a recorded easement for access coming from Saint Johns Church Road to the properties in the rear and the subject parcel accesses off US HWY 17.

There were no sign-ups or further questions from the Board.

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

*Chairman Williams called for a recess at 9:15 pm.*

*Chairman Williams called the meeting back to order at 9:23 pm.*

**8. Conditional Zoning Map Amendment:**

Rocky Point Holdings, LLC., applicant, on behalf of Jack Stocks and Rocky Point Holdings, LLC, owners, requested approval of a Conditional Zoning Map Amendment for a portion of one (1) tract and the entirety of an additional tract totaling approximately 18.11 acres from PD, Planned Development zoning district to IT-CD1, Industrial Transitional conditional zoning district one. The request is to allow the following use only: Warehousing (NAICS 493110). The subject properties are located along Carver Road (SR 1437) approximately 3,000 feet to the west of the intersection with NC 133 and Carver Road. The subject properties are located in the Rocky Point Township and may be further identified by Pender County PINs; 3223-53-8360-0000 and 3223-55-9108-0000. Planner Fiester presented and gave background information for agenda item eight (8).

Josh Mihaly, applicant, explained that there were several property owners present earlier, but he explained the request and answered their questions and felt that their conversation had eased their concerns. Mr. Mihaly further explained the request and gave an overview of the company.

There were no sign-ups. The Board held a brief discussion and had no further questions.

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

**9. Zoning Text Amendment:**

Laura Rivenbark, applicant, requested the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to amend Section 5.2.3 Table of Permitted Uses to allow Artisan Manufacturing as a permitted use in the RA, Rural Agricultural, GB, General Business, PD, Planned Development, IT, Industrial Transitional, GI General Industrial zoning districts and via Special Use Permit in the RP, Residential Performance zoning district. The requested amendment also includes adding a definition of Artisan Manufacturing to Appendix A, Definitions. Senior Planner Crowe presented and gave background information for agenda item nine (9).

There were no sign-ups. The Board held a brief discussion and had no further questions.

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

**10. Zoning Text Amendment:**

Coastal Horizons Center, Inc., applicant, requested the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to amend Section 5.2.3 Table of Permitted Uses, in order to allow Outpatient Mental Health and Substance Abuse Centers (NAICS 621420) in the GB, General Business zoning district as a permitted use. Senior Planner Crowe presented and gave background information for agenda item ten (10).

Greg Hilgert, Coastal Horizons Center, Inc, thanked the Board for their time and stated that he was available for any questions.

There were no sign-ups or further questions from the Board.

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

**11. Zoning Text Amendment:**

Pender County, applicant, requested the approval of Zoning Text Amendments to the Pender County Unified Development Ordinance: Article 2 Decision Making and Administrative Bodies, Article 3 Review Procedures, Article 4 Zoning Districts, Article 5 Permitted Uses, Article 6 Development Requirements and Content, Article 7 Design Standards, Article 11 Road Naming and Addressing and Appendix A Definitions. Specifically the request is to amend: the Summary of Review Authority (Section 2.11), Review Procedures for Minor Site Plans (Section 3.6), Notification Policies (Sections 3.3.3, 3.3.4, 3.4.3, 3.7.3, 3.9.3, 3.10.3, 3.12.2, 3.14.5, and 4.13.4), Review Procedures for General Use Rezoning (Section 3.3.5), Uses Not Specifically Listed (Section 5.2.1A), Easement Requirements (Article 6), Preliminary Plat Requirements (Section 6.4), Final Plat Requirements (Section 6.5), Easement Standards (Section 7.5.4), Road Naming (Section 11.1.2), Addressing (Section 11.6) and various definitions (Appendix A). Senior Planner Crowe presented and gave background information for agenda item eleven (11).

There were no sign-ups. The Board held a brief discussion and had no further questions. Board member McClammy thanked staff for their hard work.

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

*\*(Public Hearings Closed)\**

**12. Discussion Items:**

**a. Planning Staff Items:**

- i. TRC Update: A TRC update memo was provided to the Board in their packet and there would be no update at the November meeting due to there being no cases for a meeting in October.
- ii. Comprehensive Plan: Contract with Cape Fear Council of Governments was approved; staff would now be working on forming a steering committee.
- iii. Hierarchy CSP: Item was discussed during the work session, staff will meet with the stakeholders on 10/10, hold a special Planning Board meeting on 10/18 and hold a public hearing on 11/1.

**b. Planning Board Members Items:**

**13. Next Meeting:** November 1, 2016

**14. Adjournment:** 10:50 pm

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