

**PLANNING STAFF REPORT  
ZONING TEXT AMENDMENT**

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**SUMMARY:**

**Hearing Date:** November 7, 2018 Planning Board  
December 3, 2018 Board of Commissioners

**Applicant:** Pender County

**Case Number:** ZTA 2018-04

**Text Amendment Proposal:** Pender County, applicant, is requesting approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to amend Chapter 4, Section 12 'Overlay Districts' to add Section 4.12.6, "Bicycle and Pedestrian Improvement Overlay District' (BPIOD). A detailed description of the proposed changes is available in the Pender County Planning and Community Development Department Offices.

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**RECOMMENDATION**

The Administrator respectfully recommends approval of the Zoning Text Amendment to the Unified Development Ordinance as described in this report, as the amendment is consistent with the Pender County Unified Development Ordinance and with the Pender 2.0 Comprehensive Land Use Plan.

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**AMENDMENT DESCRIPTION**

Pender County, applicant, has requested this text amendment to the Unified Development Ordinance in an effort to increase the availability of active transportation infrastructure in strategic areas or along strategic corridors in the County. The Overlay District described in Attachment 1 represents the most effective means of accomplishing this goal. This District requires that any new construction and/or significant expansion of an existing structure shall include dedicated bicycle and/or pedestrian infrastructure in accordance with adopted bicycle and pedestrian plans. Those plans may be specific to Pender County, or may be regional plans adopted by the Pender County Board of Commissioners.

The language presented in Attachment 1 includes provisions for ensuring public access along the entire length of provided infrastructure and ensures that the infrastructure constructed by a developer or contractor meets certain minimum specifications. Any provided infrastructure shall be located within the public right-of-way where possible, and generally parallel to neighboring roadway infrastructure in consultation with NCDOT for the specific location of the required infrastructure. The design specifications of the infrastructure shall be in accordance with standards set by the American Association of State Highway and Transportation Officials (AASHTO), which sets design specifications and best practices for all types of transportation infrastructure. These standards include a minimum sidewalk width of 5' and a minimum multi-use path width of 10'. Exceptions to this requirement include scenarios where parallel construction may cause potential impacts to environmentally sensitive areas such as wetlands or creeks and where boardwalks are not possible or practical.

Also included in the language of the BPIOD is the creation of a payment-in-lieu option, in which the development typically subject to the requirements of the overlay district can contribute a fee (determined by length of road frontage and a cost per linear foot of specific infrastructure to be constructed on that frontage, as determined by the Board of County Commissioners) in lieu of actually constructing the required infrastructure. This option

must be utilized in certain circumstances, such as if the road fronting the parcel is scheduled for widening within the next five years or is otherwise scheduled to receive bicycle and/or pedestrian improvements as part of another funded and approved project. Any funds generated via this option shall be utilized solely for bicycle and pedestrian improvements in Pender County.

The BPIOD language also includes many provisions designed to better provide for human-scale, pedestrian-oriented development in the unincorporated areas of Pender County. This shall occur by ensuring that developments within established BPIODs provide direct, safe access between bicycle and pedestrian infrastructure and main entrances, provide bicycle racks and bicycle repair stations, provide pedestrian amenities such as benches, lighting, shade trees and structures, and pet waste stations. Any provided amenities shall be constructed of high-quality, durable materials and be in compliance with the Americans with Disabilities Act and any other relevant federal, state, or local statutes.

This text amendment does not propose eliminating any existing text from the Unified Development Ordinance. Proposed ordinance language for Proposed Section 4.12.6, 'Bicycle and Pedestrian Improvement Overlay District' is found in Attachment 1.

### **Next Steps**

Following the adoption of the Bicycle and Pedestrian Improvement Overlay District and its inclusion in the Unified Development Ordinance, Planning staff will draft a resolution establishing fees per linear foot of the different types of bicycle and pedestrian infrastructure to be paid by those invoking the Payment-in-Lieu option. This resolution will be taken before the Board of Commissioners for approval soon after the zoning text amendment receives approval.

Following the establishment of fees per linear foot via resolution, Planning staff will begin the process of establishing the first Bicycle and Pedestrian Improvement Overlay District along the corridor of the U-5732 Hampstead Median Project, which runs along the US Highway 17 corridor between Washington Acres Road and Sloop Point Loop Road. Much like a general use rezoning, this process will require public hearings with the Planning Board and the Board of Commissioners for approval and establishment of the overlay district.

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### **EVALUATION**

As prescribed in the Pender County Unified Development Ordinance Section 3.18.5, in evaluating any proposed Ordinance text amendment, the Planning Board and the County Commissioners shall consider the following:

- 1) The extent to which the proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements;
- 2) The extent to which the proposed text amendment represents a new idea not considered in the existing Ordinance, or represents a revision necessitated by changing circumstances over time;
- 3) Whether or not the proposed text amendment corrects an error in the Ordinance; and
- 4) Whether or not the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law.

In deciding whether to adopt a proposed Ordinance text amendment, the central issue before the Planning Board and County Commissioners is whether the proposed amendment advances the public health, safety or welfare and is consistent with any adopted County Land Use Plan documents and the specific intent of this Ordinance.

### **Pender 2.0 Comprehensive Land Use Plan Compliance**

The provision of bicycle and pedestrian infrastructure is vitally important for several reasons. This type of infrastructure allows for residents to reach nearby places of employment, services, and institutions in a safe manner without having to use an automobile, which reduces congestion and environmental harm. Additionally, this type of infrastructure allows individuals to utilize “active transportation” methods in order to get where they need to go or to exercise, which yields numerous public health benefits. Furthermore, this type of infrastructure has been shown to increase property values adjacent to the infrastructure, and that individuals using this type of infrastructure tend to visit more businesses near that infrastructure and spend more money per month at those businesses as well.

The Pender 2.0 Comprehensive Land Use Plan includes language prioritizing “nonmotorized transportation.” The proposed amendment is consistent with the following goal, objective, and recommended actions in the Pender 2.0 Comprehensive Land Use Plan:

**Goal 4.3:** Provide safe opportunities for walking and cycling, while supporting the need for paratransit service and other alternatives to provide transportation choices for residents and visitors.

**Objective 4.3:** Encourage alternative means of transportation to reduce traffic, enhance economic development, offer services to those without use of a vehicle, and provide recreational opportunities for residents and visitors.

**Recommended Action 4.3.D.1:** Establish a funding strategy and continuing maintenance policy for construction of County sidewalks and greenway/multi-use path facilities. Ideally, such funding and maintenance responsibility shall be under the purview of the Parks and Recreation department.

**Recommended Action 5.1.H.4:** Require the installation of bicycle and pedestrian infrastructure as outlined in a future Comprehensive Bicycle and Pedestrian Transportation Plan, which specifically serves the development.

The creation of the Bicycle and Pedestrian Improvement Overlay District provides additional tools to Pender County to require the construction of this type of infrastructure as part of the development process. When construction is not feasible or practical, the ordinance language also provides for the contribution of funds that can contribute to the construction of bicycle and pedestrian infrastructure in the future. Additionally, the proposed text amendment is potentially consistent with the following recommended action:

While a Comprehensive Bicycle and Pedestrian Transportation Plan for Pender County does not currently exist, this Overlay District would require the installation of bicycle and pedestrian infrastructure in accordance with other adopted plans, such as Comprehensive and Metropolitan Transportation Plans and the Cape Fear Regional Bike Plan. The proposed language thus provides the mechanism for implementation of current and future adopted bicycle and pedestrian plans in unincorporated areas of Pender County.

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**RECOMMENDATION**

The Administrator respectfully recommends approval of the Zoning Text Amendment to the Unified Development Ordinance as described in this report, as the amendment is consistent with the Pender County Unified Development Ordinance and with the Pender 2.0 Comprehensive Land Use Plan. The text amendment is consistent with one (1) goal, one (1) objective, and two (2) recommended actions in the Pender 2.0 Comprehensive Land Use Plan.

**PLANNING BOARD CONSISTENCY STATEMENT:**

**TO APPROVE:** Motion to approve the Zoning Text Amendment and to make a finding that the approval is consistent with the Pender 2.0 Comprehensive Land Use Plan. Generally, the Pender 2.0 Comprehensive Land Use Plan supports efforts to provide bicycle and pedestrian infrastructure in appropriate areas of Pender County. The proposed amendment is consistent with the following goal, objective, and recommended actions in the Pender 2.0 Comprehensive Land Use Plan:

- **Goal 4.3**
  - o **Objective 4.3**
    - **Recommended Action 4.3.D.1**
    - **Recommended Action 5.1.H.4**

There are no specific goals or policies that conflict with the proposal. The proposed Zoning Text Amendment is consistent with the spirit, purpose, and intent of the Pender 2.0 Comprehensive Land Use Plan and with the Pender County Unified Development Ordinance.

**TO DENY:** Motion to deny the Zoning Text Amendment and to make a finding that although the proposal is consistent with the Pender 2.0 Comprehensive Land Use Plan, said denial is reasonable and in the public interest and does not further the goals of the 2010 Comprehensive Land Use [INSERT REASONING].

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**BOARD ACTION FOR ZONING TEXT AMENDMENT**

**Motion:** \_\_\_\_\_ **Seconded:** \_\_\_\_\_

**Approved:** \_\_\_\_\_ **Denied:** \_\_\_\_\_ **Unanimous:** \_\_\_\_\_

Fullerton: \_\_\_\_\_ Nalee: \_\_\_\_\_ Baker: \_\_\_\_\_ Carter: \_\_\_\_\_ Jordan: \_\_\_\_\_ McClammy: \_\_\_\_\_ Rhodes: \_\_\_\_\_