



MINUTES
Planning Board Meeting
Tuesday, June 7, 2022
Pender County Hampstead Annex Auditorium
7:00 PM

MEMBERS PRESENT: Delva Jordan
Damien Buchanan
Jeffrey Pitts
Margaret Mosca

MEMBERS ABSENT: Jeff Beaudoin
John Gruntfest
Norman K. (Ken) Teachey

OTHERS PRESENT: Travis Henley, Planning Director
Donna Sayre, Administrative Assistant
Other Staff and Members of the Public.

1 CALL TO ORDER
Chairman called the meeting to order at 7:02 PM

2 ROLL CALL

3 INVOCATION

4 PLEDGE OF ALLEGIANCE

5 ADOPTION OF AGENDA

a) Motion to approve agenda

Moved by Margaret Mosca, seconded by Damien Buchanan

Motion Approved

	For	Against	Abstained	Absent
Delva Jordan	x			
Jeff Beaudoin				x
Damien Buchanan	x			
John Gruntfest				x

Jeffrey Pitts	x			
Norman K. (Ken) Teachey				x
Margaret Mosca	x			
	4	0	0	3

CARRIED.

6 ADOPTION OF MINUTES

a) April 5, 2022 Meeting Minutes

Moved by Jeffrey Pitts, seconded by Damien Buchanan

Motion to adopt meeting minutes from 4-5-2022 approved

	For	Against	Abstained	Absent
Delva Jordan	x			
Jeff Beaudoin				x
Damien Buchanan	x			
John Gruntfest				x
Jeffrey Pitts	x			
Norman K. (Ken) Teachey				x
Margaret Mosca	x			
	4	0	0	3

CARRIED.

7 PUBLIC COMMENT

Pender County resident, Ed Hirsch, spoke to the Board stating that any zoning requests that add more traffic, congestion, and other issues should be denied. Higher taxes are being created and the longtime residents will be gone due to the area being too expensive to live here. He feels newcomers to the area do not respect the area. This Board has the power to stop this trend.

Jimmy Tate spoke to the Board and the members of the audience introducing himself as a newly elected Commissioner. He stated that he was proud of the fact that the public is engaging and working together. Mr. Tate stated that whether you voted for him or not, give him the opportunity to work with the residents.

8 PUBLIC HEARINGS

a) MDP-R 2022-38

Signature Top Sail NC, Ltd., applicant and owner, and on behalf of Trust Special, Ruth Kalmar estate, owner, is requesting a revision to the previously approved Master Development Plan for the mixed-use development known as Wyndwater. Specifically, the request is to modify the existing Plan to allow for townhomes in Phases 7 and 11, increase the commercial area within both phases, and remove Phase 10 from the Plan. The Master Development Plan is proposed to reduce in size to approximately 206 acres (from approximately 235 acres) with the total number of units remaining consistent with previous approvals. The property is located to the east of US HWY 17, north of Doral Drive (SR 1693), west of Sloop Point Loop Road (SR 1563), and south of Cardinal Acres Lane (private) in Topsail Township.

Travis Henley, Planning Director, reviewed the staff report with the board and members of the public interest. He stated that this was originally heard at April 5, 2022, meeting but was tabled due to the request of the Board members. Mr. Henley stated that the Board requested at the April meeting that the applicant provide clarification and additional requested information. He stated that the proposal has not changed since the last meeting.

Applicant, Mike Pollak, spoke to the Board and stated that concerning the buffer issue, the Ordinance requires an "A" type buffer and there is plenty of room to accommodate this type of buffer. He stated that he is fully aware of all the existing utilities on the property and the Engineer laid out the plan with the lines in mind.

Mr. Pollak reported that Phase 10 is no longer being pursued due to the property being owned by them. The property was swapped out so that Phase 5 could be pursued instead.

Ms. Mosca stated her concern about run-off water. Garry Pape with GSP Consulting stated that he has walked the property and they will put drains where needed. The drains that they install will help existing drainage issues.

Mr. Pollak stated that Topsail Greens was developed when rules were different or even non-existent.

Ms. Mosca again stated that she is concerned with elevation issues and the developer's inability to control 100 percent of run-off. Mr. Pollak stated they are not wanting to make the existing properties worse rather they would be improving some of the existing problems by cleaning or

enlarging existing ditches and replacing smaller broken pipes. Ms. Mosca questioned where would the water go. The land is very flat, low density and already saturated. She expressed her concern that the stormwater plan will not be followed. Damien Buchanan stated that shouldn't the stormwater information be included and where does this project fall into this process?

Mr. Henley stated that normally the engineer will draw it on the plat. Ms. Mosca stated that she does not feel that there is enough information and does not like the "we'll figure it out later" mindset. She stated that retention ponds only further retain water, and she is afraid that there are going to be stormwater issues.

Mr. Pollak stated that nothing gets permeated that does not meet the criteria. Ms. Mosca understands the concept due to being an Engineer herself but is still concerned about the impact this will have on surrounding areas due to not knowing where the extra water will flow to. Mr. Pollak stated that they are doing maintenance that has not been done and should have been done for several years. He is 100% confident that they will meet all the stormwater criteria.

Mr. Buchanan stated that a major concern of his is that this development butting up to existing septic systems will cause future problems that will not be able to be corrected.

Ms. Mosca requested that the GIS map be pulled up and Mr. Feldman located the map and projected it onto the screen. She stated with the flood zones and wetlands, the whole area is already waterlogged. By using a gravity sewer system, the developer will have to raise the area around this property and that will increase the runoff water for existing surrounding properties.

Mr. Buchanan asked what is the developer's runoff water solutions. Mr. Pape stated that the ditches tie into the pond area. Many of the pipes are in bad condition and will be replaced. They will also make the existing ditch wider and deeper. Mr. Buchanan asked if the ditches would be inside the landscape buffer and Mr. Pape stated possible.

Mr. Pollak stated that all the water will not run into the pond and Ms. Mosca asked where it will run.

Chairman Delva Jordan asked if the Board had any additional questions for the applicant and no further questions were asked. He then moved on to comments from the public.

County Attorney Trey Thurman explained the time frame each signed-up person or representative of a group would receive. He also stated that a person could pass if they feel their question was already answered or their point was already made.

Al Burfield, 353 Topsail Plantation Drive, expressed his concerns the all conceptual plans with nothing being firm, traffic issues that have not been addressed, and ownership of Topsail Plantation Drive not being addressed.

Lyndsay Oliver, 21 Spar Court, addressed the Board with her concerns about runoff water. She stated that the retention ponds kept her home from flooding during Hurricane Florence. Ms. Oliver is also concerned with wildlife being disturbed when she feels there should be more green areas and trees and not less. She stated that she does not want to hear concepts from the developer.

Becky Maness, 914 Lighthouse Court, stated that she is the HOA VicePresident for Topsail Greens and Topsail Greens has never had septic Page 6 of 18 issues and the developer is not able to guarantee it will stay that way in the future. She feels the developer will not protect their septic and utility lines and is requesting that the Board not approve this request.

Joy Stees, 400 Ensign Court, expressed her concern that the townhouses will add tremendous traffic and no consideration has been given to the traffic issues. There is no definite completion date for the by-pass and adding additional traffic will only cause more harm. She stated that Pender County needs to care about the residents and their lives and not the money. Ms. Stees questioned if people were possibly getting paid under the table.

Amber Young of Ensign Court stated that the State of North Carolina has declared Topsail Greens a bird sanctuary and that there are state regulations that need to be followed pertaining to bird sanctuaries. She would like to have the land sold to the state of North Carolina and have it converted into a nature preserve. Her concerns relate to the wetlands, flood zone designation, and the bird sanctuary.

Karen Koon, 214 Spar Court, expressed that she has many concerns, but her main concern is flooding. During Hurricane Florence, water made it to her back porch and that was with drainage so what will happen if the drainage is blocked? She feels that the developer needs to state facts and have everything put in writing.

Andrew Adkinson, 108 Admiral Court, does not feel the trade that Mr. Pollak was speaking of was not a nice trade at all. The developers are trying to squeeze too much into a small area. He stated that the retention ponds already fill up after rainfall and this request is not in the best interest of Pender County. This needs to be stopped and the Planning Board can stop this now.

Michaele Blunt, 110 Admiral Court, has been a resident for twenty years and is concerned with flooding issues. There is a pond near her home that will be filled in and replaced with a parking area. She stated that the golf course already stands in water during rain. Ms. Blunt feels that traffic will become even more unacceptable if this is improved. She expressed that if this is approved by the Board, it will be an irresponsible decision.

Bob Aberman, 140 Champion Drive, moved into his home in Topsail Greens in 2012 and was told that open areas were going to be golf courses and that idea has seemed to change and disappear. He feels that the quiet and peaceful area that he currently lives in will no longer exist if this is approved.

Harold Ballitch, 307 Ruddek Court, questioned the traffic count at Topsail Greens Drive and 17. Mr. Feldman stated that the study was submitted and completed on March 10, 2022. Mr. Ballitch also questioned the plan for the numerous turtles that live in the area and stated that Onslow County is a turtle community and is Pender County.

Karna Godridge, 623 Outrigger Court, questioned the Board as to how many fatalities Pender County is willing to take on because they happen now and will increase if this is approved. The Developer is always seeking more and this needs to come to an end. The Board needs to consider what is right because this development will change Topsail Greens forever.

Anthony Whitmore, 504 Fathom Court, expressed his concern about the natural border and questioned whether the wetlands were registered and has the applicant submitted a 100-year flood plain?

Mario Pinierio, 614 Galley Court, stated his concerns about the school overcrowding, can the fire department save people in a 3-story townhouse, whether some of the ponds are empty and where is the water going, and whether there are big trucks driving by his house on a regular basis that are ruining the current drainage.

Steven Wedgeworth, 138 Pebble Beach Drive, stated that he understands the Board's responsibilities but is questioning what the Board's mission for Pender County is. He also feels the plans need to be more informative and has emailed the Planning Department and has received no response.

Arthur Mark, 109 Plank Court, stated that he was at the last meeting and that flooding is his biggest concern and not just during a hurricane.

Kimberly Zampitella, 115 Navy Court, stated that the loss of green space would be detrimental and that the loss of the cart path would be very negative.

Paul Lee, 115 Navy Court, expressed to the Board his concerns pertaining to noise, sound, and traffic pollution. He is particularly concerned with the lighting that would need to be installed in the parking lots. He has no doubt it will bother the neighbors who live nearby.

Anne Bridges, 146 Champion Drive, expressed her concern with the history of the developer. Despite what the developer said earlier in the meeting, she has never met with him. Wyndwater is a big lie, and she stands with and for her community.

Mr. Buchanan read the mission statement of the Pender County Planning Department. Mr. Henley also stated that the Unified Development Ordinance which was adopted in 2018, is also part of the mission plan.

Mr. Henley stated that this proposal is a Master Plan Development under the zoning district and all PDs go through this same process. This property is already zoned PD, so this is an administrative process. He reviewed that the Planning Board has three options at this point: to approve, approve with modifications, or deny. If denied, the case can be appealed to the Board of Adjustments by the applicant.

Chairman Jordan asked the applicant if he would like to address some of the questions and concerns of the audience. He agreed and came back up to the podium. Mr. Pollak stated that they are not filling in any wetlands. The pond that is being filled in is upfront and not in the wetlands. Mr. Buchanan asked the applicant what the height of the townhomes will be. Mr. Pollak stated that they will be 2 story units that cater to "empty nesters". This property has always been about future development and the townhomes were approved from the very beginning. Chairman Jordan asked the Board members if they have any

additional questions about the applicant or the Planning Department. All members responded that they had no additional questions.

Moved by Margaret Mosca, seconded by Damien Buchanan

Motion to deny based upon the applicant's failure to meet the requirements as detailed in the Pender County Unified Development Ordinance Section 7.9.D Design Standards, Subsection E, Plan Submittal Requirements.

	For	Against	Abstained	Absent
Delva Jordan	x			
Jeff Beaudoin				x
Damien Buchanan	x			
John Gruntfest				x
Jeffrey Pitts	x			
Norman K. (Ken) Teachey				x
Margaret Mosca	x			
	4	0	0	3

CARRIED.

b) ZTA 2022-15

Trask Land Company Inc., the applicant, is requesting approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to amend Section 3.2.1 'Zoning Approval' to allow for the issuance of clearing and grading permits prior to the issuance of final zoning approval.

Mr. Henley stated that Trask Land Company is the applicant but the language already exists. This request is to increase efficiency in the development process. He stated that this proposal is found to be consistent with Policy 5.1.G, Development Review.

Mr. Buchanan asked what the process is now and what will it be if this is approved. Mr. Henley informed the Board of the current process and how this proposal will change that. Mr. Henley stated that if this is approved, a clearing and grading permit can be issued before the final zoning is approved. Ms. Mosca asked what would happen if the grading and clearing were done and zoning was not approved.

Mr. Henley stated that this could happen but is very rare. The applicant/owner would still be responsible for the tree mitigation that the Ordinance requires. Attorney Trey Thurman stated that language that it runs with the property should be added. Ms. Mosca stated that applicants should have to put up a bond for tree mitigation. Mr. Henley stated from the Planning Department's perspective that it would not hurt to add that language. Ms. Mosca asked what section of the Ordinance includes enforcement and Mr. Feldman responded with Article 13. Gardner Noble, the applicant, spoke to the Board. He stated that he is wanting the development process in Pender County to come in line with other counties. It will make construction quicker and easier. Chairman Jordan asked the Board members if they have any questions for the applicant and there was no response.

Andy Wood, PO Box 1008, stated that he is part of the Coastal Plains Conservation Group and stated that the amendment will diminish and not improve and that this will help the developers but not the residents. He requested that the Board deny the proposed amendment change.

Chairman Jordan asked the Board if they had any questions for the Planning Department staff and no questions were asked.

Ms. Mosca stated that this is a legal matter that needs to be discussed.

Mr. Thurman stated that there is a concern that the applicant would not continue with the zoning process after clearing and grading but he imagines that the applicant would have a major reason to do so. Mr. Henley stated that this exact situation could happen under the current process.

Moved by Damien Buchanan, seconded by Jeffrey Pitts

Motion made by Damien Buchanan and seconded by Jeffrey Pitts to table this matter until the next scheduled meeting July 6th, 2022

	For	Against	Abstained	Absent
Delva Jordan	x			
Jeff Beaudoin				x
Damien Buchanan	x			
John Gruntfest				x
Jeffrey Pitts	x			
Norman K. (Ken) Teachey				x
Margaret Mosca	x			

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CARRIED.

c) REZONE 2022-31

Benjamin Burgess, applicant, on behalf of B Squared LLC, owner, is requesting approval of a Zoning Map Amendment to rezone one tract totaling approximately 303 acres of land from RP, Residential Performance zoning district to the RA, Rural Agricultural zoning district.

The subject project is located on Ashton Road, approximately one mile west of the intersection of Ashton Road and US HWY 117 in the Rocky Point Township, and may be further identified by Pender County PIN 3236-02-4982-0000.

Greg Feldman expressed to the Board that most of the area surrounding this parcel is zoned residential. This parcel is a vacant cleared tract of farmland. He stated that there are 7 Residential Uses by-right, 22 Commercial Uses by-right, and 70 Commercial Uses with Special Use Permit. Mr. Feldman told the Board that this request is consistent with the Unified Development Ordinance and the Pender County Planning Department recommends approval. Mr. Buchanan stated that he feels Rural Agricultural is actually “better” due to having less density and houses.

Chairman Jordan questioned how long the property has been zoned Rural Agricultural. Mr. Feldman stated since at least 2016 that the property is currently distinguished as a bonafide farm.

Mr. Henley stated that previously this property had been zoned R-20 until the Unified Development Ordinance zoned it Rural Performance. Chairman Jordan asked the Board members if they had any questions for the Planning Board staff and no members responded. The applicant, Benjamin Burgess spoke to the Board by stating he wants to keep the land agriculture. He feels Rural Agricultural is more consistent with his intent.

Chairman Jordan asked the Board members if they had any questions for the applicant and no members responded.

Wanda Wilson, Ashton Road, owns the land adjacent to this property questioned what the intentions are of the applicant.

Attorney Trey Thurman stated that the Board must address what “could be’s”.

Mr. Buchanan explained the difference between the two zoning to Ms. Wilson.

Ms. Wilson stated that clearing has been done and she is concerned with the trees that are being eliminated.

Nearby resident, Maurice Morrow, questioned if the property is rezoned Rural Agricultural would hog, turkey, or chicken houses be permitted? Mr. Thurman stated that due to this property being delegated as a bonafide farm that it is exempt from zoning. Mr. Morrow stated that there is no farming being done on the land and it is a tree farm. Mr. Thurman stated that tree farming is farming. Mr. Morrow stated that he does not want hog, turkey, or chicken farming to be allowed next door to his property.

Moved by Margaret Mosca, seconded by Jeffrey Pitts

Motion to approve

	For	Against	Abstained	Absent
Delva Jordan	x			
Jeff Beaudoin				x
Damien Buchanan	x			
John Gruntfest				x
Jeffrey Pitts	x			
Norman K. (Ken) Teachey				x
Margaret Mosca	x			
	4	0	0	3

CARRIED.

d) REZONE 2022-32

Michael Afify, applicant, on behalf of Share the Table, Inc., owner, is requesting approval of a Zoning Map Amendment to rezone one tract totaling approximately 0.6 acres of land from the RP, Residential Performance zoning district to the GB, General Business zoning district. The subject property is located along Perkins Drive, approximately 300 feet east of US HWY 17 in the Topsail Township, and may be further identified by Pender County PIN 4226-74-5773-0000.

Daniel Adams, Flood Plain administrator, stated that the surrounding properties are zoned GB, General Business, and RP, Rural Performance. To the west of this property, is vacant property zoned GB, to the north is a non-confirming Page 13 of 18 residential structure and to the east and south are residential structures. Mr. Adams reviewed the setback requirements and that there are 83 uses by right and 18 uses with a Special Use Permit. A Traffic Impact Analysis is not required for a general-use rezoning since a site-specific development plan is not required to be included in the application package.

Chairman Jordan asked if Perkins Drive was paved and Mr. Adams affirmed that it is a paved road. Mr. Adams stated that this request is consistent with Policy 5.1.E., Compatible Development, and 5.1.K., Commercial Development. Due to this request being consistent with two policies, the Planning Department is recommending that the Planning Board vote approve.

Mr. Buchanan asked what the buffer requirement would be if the rezoning was approved. Mr. Adams stated that Buffer "C" would be required and Buffer "C" gives two different options. Mr. Buchanan questioned what the height limitation is in both RP and GB. Mr. Daniels stated that in a GB zoning district, the height limit is 40 feet and in an RP zoning district, the limit would be 35 feet.

Chairman Jordan asked if any of the Board members had questions for the Planning Board staff, and no response was received.

Applicants, Dawn Ellis, and Michelle Bennett, spoke to the Board and informed them that this property will be used for stormwater drainage.

Mr. Adams stated that the buffer requirement would be the same if it is used as stormwater drainage.

Kathleen Nixon, 681 Landing, stated she is not able to stay on her land and is not understanding why. She wants to be able to live on her property and is requesting help to do so.

Robert Kirkland, 100 Perkins Drive, stated that traffic is a major problem. Due to the new school being built, he can't get in and out of his driveway in the morning and afternoon. He is against any request that will bring more traffic to the area. Mr. Kirkland stated that the speed limit is still 45 in that area, which is entirely too fast.

Treana Kirkland, 100 Perkins Drive, stated that she is unclear as to what is occurring so Mr. Adams explains re-zoning from residential to commercial use. Ms. Kirkland expressed her concern as to what will happen in the future.

Chairman Jordan asked the Board members if they had any additional questions for the Planning Department staff and no additional questions were asked.

Mr. Buchanan spoke of the uses, and he is comfortable with this request due to the uses already being allowed.

Moved by Jeffrey Pitts, seconded by Margaret Mosca

Motion to approve

	For	Against	Abstained	Absent
Delva Jordan	x			
Jeff Beaudoin				x
Damien Buchanan	x			
John Gruntfest				x
Jeffrey Pitts	x			
Norman K. (Ken) Teachey				x
Margaret Mosca	x			
	4	0	0	3

CARRIED.

e) REZONE 2022-33

Robert Batson, applicant, and owner, is requesting approval of a Zoning Map Amendment to rezone one tract totaling approximately 41 acres of land from the GB, General Business zoning district to the IT, Industrial Transitional zoning district. The subject project is located along Sloop Point Loop Road, approximately one-half mile east of its intersection with US HWY 17 in Topsail Township, and may be further identified by Pender County PIN 4204-92-0474-0000.

Planner Greg Feldman stated that the property is primarily vacant with only a few metal buildings located on the property. He advised of the setback requirements if the property is rezoned to IT and that there are 90 commercial uses permitted by right and 8 Special Use Permit uses.

Mr. Feldman stated that a Traffic Impact Analysis is not required for a general-use rezoning since a site-specific development plan is not required to be included in the application packet. If approved and developed in the future, estimated trip generation data will be required during the review of any site-specific development plan to determine if a TIA is required. Mr. Feldman stated that IT, Industrial Transitional is more intense and inconsistent with the 2.0 Unified Developmental Ordinance. Due to this, the Planning Department is recommending that this request be denied.

The applicant, Robert Batson spoke to the Board. He expressed his desire to keep this land but that it was getting harder and harder to do so since there was no money in farming any longer. He inherited this land from his parents and wants to keep it in his name and not lose it. Mr. Batson stated that he is trying to put something there that will help pay the taxes.

Chairman Jordan asked the Board members if they have any questions for the applicant. No questions were presented.

Steven Wedgeworth, 138 Pebble Beach Drive, expressed to the Board that his property backs up to this parcel and is worried about the uses that the proposed zoning would allow. He requested that the Board deny the request.

Mr. Buchanan spoke to the other Board members about the uses in the proposed rezoning request and feels that this site is not the right location. He cannot say that he is in favor of the request to rezone as of today.

Ms. Mosca agreed with Mr. Buchanan in that the IT zoning is not proper for this area.

Chairman Jordan stated that he understands that this is family land and that the applicant wants to hang onto the land but this rezoning request is very broad. If the applicant had a specific use in mind, then the rezoning request may be possible.

Brad George, 102 Doral Drive, stated that the applicant is his wife's uncle. He stated that the applicant is interested in possibly putting outdoor boat storage on the parcel would that use require permission in a GB, General Business zone? Mr. Feldman stated the current zoning is GB and if it was rezoned to IT, then outdoor storage is permitted. Mr. George expressed his concern that he is not sure that the applicant is thinking this request all the way through properly. He is afraid if the

whole track is rezoned and just not a portion, then the tax value would increase and the applicant would be in a worse financial position to pay the required taxes. Mr. George feels that possibly rezoning a portion of the parcel would be a better option for the applicant.

Mr. Buchanan asked Mr. Feldman if the Board denies this request today, would the applicant be penalized for changing his request and submitting a new application? Mr. Feldman stated there would be no waiting period nor would the applicant be penalized.

Moved by Margaret Mosca, seconded by Jeffrey Pitts

Motion to deny

	For	Against	Abstained	Absent
Delva Jordan	x			
Jeff Beaudoin				x
Damien Buchanan	x			
John Gruntfest				x
Jeffrey Pitts	x			
Norman K. (Ken) Teachey				x
Margaret Mosca	x			
	4	0	0	3

CARRIED.

9 DISCUSSION

10 NEXT MEETING DATE

- a) July 6, 2022 (Wednesday) at 7 PM
Pender County Administration Building
805 S. Walker Street
Burgaw, NC 28425

11 ADJOURNMENT