

# Pender County Planning and Community Development

## Planning Division

805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202  
Fax: 910-259-1295  
[www.pendercountync.gov](http://www.pendercountync.gov)

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## Special Use Permit Removal Zoning Text Amendment

**Case Number:** ZTA 2023-21

**Application Type:** Zoning Text Amendment

**Applicant:** Pender County Planning & Community Development

**UDO Sections to be Amended:** Section 3.20, Recreational Vehicle Park; Section 5.2, Permitted Use Table; Section 5.2.3, Table of Permitted Uses; Section 5.3.3(B), Cottage Occupation; Section 5.3.12(G), Marinas (Commercial); Appendix A: Definition, Artisan Manufacturing

**Description:** Pender County Planning & Community Development, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to remove the process of obtaining new Special Use Permits for certain specific land uses, mainly in residential zoning districts. Special Use Permits that have been approved previously would remain in place. Uses that are no longer allowed by Special Use Permit would require approval through the Conditional Rezoning process.

### **Board of County Commissioners/Planning Board Meeting**

PB: 3/5/2024, BOCC: 4/15/2024

**Included: Application Materials, Application Package, Proposed Amended Text**

# **APPLICATION PACKAGE**

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## Zoning Text Amendment Submission

Applications will be considered for review by Staff only when deemed complete. The application will be regarded as incomplete until the following items are received by the Planning and Community Development Staff.

1.   X   **Pre-submittal Meeting**  
Date of Meeting   12/4/2023
2.   X   **Signed Application**
3.   n/a   **Payment**  
\$250
4.   X   **Narrative**  
A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Section 3.18.5 of the Pender County UDO.
5.   X   **Digital Submission**  
For all documents submitted in paper copy, please a digital copy with paper submission.

I certify that all information presented in this application is accurate to the best of my knowledge.

Signature of Applicant   Adam Moran  

Date   12/13/2023  

Printed Name   Adam Moran  

Staff Initials:	<u>  AM  </u>
Date:	<u>  12/13/2023  </u>

Zoning Text Amendment



**Submit Completed Application  
and Materials**



**Planning Staff Review**



**Planning Board Public Hearing for  
recommendation**



**Board of County Commissioners Decision  
Rendered**

## **Zoning Map Amendment Specific Requirements**

### **1. Application Submittal**

- Application
- Narrative: A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Section 3.18.5 of the Pender County UDO.

### **2. Planning Board and Board of Commissioners Review Criteria (per Section 3.18.5)**

- A. 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.
- B. In deciding whether to adopt a proposed Ordinance text amendment, the central issue before the 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, the CAMA Land Use Plan, and the specific intent of this Ordinance.

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## **TEXT AMENDMENT**

A request to amend the text of this Ordinance may be initiated by the County Commissioners, Board of Adjustment, Planning Board, Administrator, or a citizen of Pender County.

### **Approval Criteria** (*Section 3.18.5*)

In evaluating any proposed ordinance text amendment, the Planning Board and the County Commissioners shall consider the following:

- a. The extent to which the proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements;
- b. 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;
- c. Whether or not the proposed text amendment corrects an error in the Ordinance; and
- d. Whether or not the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law.
- e. In deciding whether to adopt a proposed Ordinance text amendment, the central issue before the 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, the CAMA Land Use Plan, and the specific intent of this Ordinance.

### **Action by the Planning Board**

1. Before making any recommendation on a text amendment, the Planning Board shall consider any recommendations from the Administrator and shall conduct a public hearing where interested parties may be heard.
2. The Planning Board shall make a recommendation based on the approval criteria.
3. The Planning Board shall make its recommendation following the initial public hearing.

### **Action by County Commissioners**

1. Before taking action on a text amendment, the County Commissioners shall consider the recommendations of the Planning Board and Administrator and shall conduct a public hearing.
2. The County Commissioners shall make a decision based on the approval criteria.
3. Following the public hearing, the County Commissioners may approve the text amendment, deny the amendment, or send the amendment back to the Planning Board or a committee of the County Commissioners for additional consideration.

**In deciding whether to adopt a proposed Ordinance text amendment, the central issue before the 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, the CAMA Land Use Plan, and the specific intent of this Ordinance.**

# APPLICATION FOR TEXT AMENDMENT

## THIS SECTION FOR OFFICE USE

<b>Application No.</b>	ZTA 2023-21	<b>Date</b>	12/13/2023
<b>Application Fee</b>	\$ n/a	<b>Invoice Number:</b>	n/a
<b>Pre-Application Conference</b>	12/4/2023	<b>Hearing Date</b>	PB- 1/3/24; BOCC- 2/19/24

### SECTION 1: APPLICANT INFORMATION

<b>Applicant's Name:</b>	Pender County Planning & Community Development Department
<b>Applicant's Address:</b>	805 South Walker Street
<b>City, State, &amp; Zip</b>	Burgaw, NC 28425
<b>Phone Number:</b>	910-259-1202
<b>Email Address:</b>	amoran@pendercountync.gov

### SECTION 2: UDO TEXT TO BE AMENDED

Current Text to be Amended (Please site accurate Article number referenced):

See Attached Description

Proposed Text to be added: See Attached Description

### SECTION 3: SIGNATURE

<b>Applicant's Signature</b>	<i>Adam Moran</i>	<b>Date:</b>	12/13/2023
<b>Applicant's Printed Name</b>	Adam Moran	<b>Date:</b>	12/13/2023

### NOTICE TO APPLICANT

If the applicant makes significant changes to the application for a text amendment after the Planning Board has made its recommendation, the Administrator may refer the modified request back to the Planning Board for an additional public hearing.

### TEXT AMENDMENT CHECKLIST

<input checked="" type="checkbox"/>	Signed application form
n/a <input type="checkbox"/>	Application fee
<input checked="" type="checkbox"/>	A letter describing, in detail the intent and purpose of the amendment presented, meeting the approval criteria set forth in Section 3.18.5 of the Pender County UDO (shown on page 1 of this application)

### Office Use Only

n/a <input type="checkbox"/> <b>ZTA Fees:</b> \$250		<b>Total Fee Calculation:</b> n/a - Staff Initiated ZTA	
<b>Payment Method:</b> n/a	<b>Cash :</b> <input type="checkbox"/> \$ _____	<b>Credit Card:</b> <input type="checkbox"/> Master Card <input type="checkbox"/> Visa	<b>Check:</b> <input type="checkbox"/> Check # _____
Application Received By:	Adam Moran	Date:	12/13/2023
Application completeness approved by:	Justin Brantley	Date:	12/13/2023
Dates Scheduled for Public Hearings:	<input checked="" type="checkbox"/> Planning Board: 1/3/2024	<input checked="" type="checkbox"/> BOC: 2/9/2024	

# **ATTACHMENT 1**

**UDO TEXT CHANGES**

**ZTA 2023-21**

**3.20 RECREATIONAL VEHICLE PARK**

**3.20.1 Intent**

- A. Proposed recreational vehicle parks of three (3) acres or more are required to apply for a Conditional Rezoning Special-Use Permit. Upon approval of the Conditional Zoning district Special-Use Permit by the Board of County Commissioners, the applicant may proceed with the preparation of a Major Site Development Plan.

**3.20.2 Review**

- A. All new recreational vehicle parks and additions or alterations to existing parks must be in accordance with this ordinance.
- B. All recreational vehicle park proposals shall be waived from the Master Development Plan review process.
- C. Completed site plan, application, fees, and other required data must be submitted 45 days before a scheduled Board of County Commissioners meeting.
- D. When required submission material is submitted as noted above, it shall be placed on the next scheduled Board of County Commissioners agenda, if applicable.
- E. Recreational vehicle parks must meet all requirements prescribed in Section 5.3.10.B, Recreational Vehicle Park and Section 6.3, Major Site Development Plan.
- F. The Administrator shall forward the application for Conditional Rezoning Special-Use Permit to the Technical Review Committee for review. The Committee shall make recommendations to the Administrator concerning whether the proposal meets the requirements of any Pender County codes or Ordinances and other State or Federal regulations as appropriate within ten (10) business days. Upon Major Site Development Plan submittal, the Administrator shall forward the site plan to the Technical Review Committee for additional review.
- G. The Administrator shall determine and provide comments to the applicant whether the proposed recreational park is in conformance with applicable sections of this Ordinance.
- H. Approval of the major site development plan shall expire within two years of the approval date unless final zoning have been obtained for construction.
- I. The Administrator shall periodically inspect the site during construction to ensure that the site plan requirements are met.
- J. The site plan shall be reviewed and approved or disapproved and notice of action taken provided to the applicant within 30 working days of completed submission. The signed original will be provided to the applicant and a signed copy will be filed accordingly.
- K. Final Zoning Approval shall not be issued for any use or site requiring a site plan until all requirements shown on the approved site plan have been met and all improvements shown on the site plan have been provided.

## Attachment 1: ZTA 2023-21 Text Amendments – Page 2

### 5.2-PERMITTED USE TABLE

The following key applies to the Table of Permitted Uses (see Section 5.2.3)

Key to Permitted Use Table	
P = Permitted	A “P” in the use table indicates that a use is permitted by right in the respective district. Such uses are also subject to all other applicable requirements of this Ordinance.
D = Permitted with Standards	Cross-reference to any use standard listed in Section 5.3, Uses with Standards. Where no cross-reference is shown, no additional use regulations shall apply.
S = Special Use Approval Required	An “S” indicates a use that may be permitted in the respective district only where approved by the County Board of Commissioners in accordance with Section 3.12 Special Use Permit. Uses requiring Special Use Permits are subject to all other applicable requirements of this Ordinance, except where such use standards are expressly modified by the approving authority as part of the Special Use Permit approval.
PM = Permitted in Conjunction with the MDP Process	A “PM” indicates that a use is permitted by right in the respective district with the approval of a Master Development Plan in accordance with Section 3.5.
<b><u>PMD = Permitted in Conjunction with the MDP Process and Use Standards</u></b>	<b><u>A “PMD” indicates that a use is permitted by right in the respective district with the approval of a Master Development Plan in accordance with Section 3.5 and with certain limited use standards. Cross-reference to any use standard listed in Section 5.3, Uses with Standards. Where no cross-reference is shown, no additional use regulations shall apply.</u></b>
Blank Cell	Not allowed <b><u>or permitted in this zoning district. Uses not permitted may seek permission by approval through the Conditional Rezoning process. For more information on this process, see Section 3.3.9(B), Conditional Rezoning.</u></b>

#### 5.2.1-Uses Not Specifically Listed

- A. Any use not specifically listed in this Article is expressly prohibited, unless the Administrator determines, in accordance with Section 3.17, Written Interpretation, that the use is similar to a permitted individual use or permitted group of uses as listed in this Article. Where such similar permitted individual use or permitted group of uses is subject to a limited use standard contained in this Article or special exception review, the proposed use shall also be subject to such standard or approval. The Administrator shall not amend this chapter by adding to or eliminating any use standard for the proposed use. In the event a proposed use is similar to a listed use, the Administrator shall use the following criteria to evaluate the admissibility of the use before permitting: type of use, environmental effects, traffic impacts, noise, odor or other applicable criteria as determined by the Administrator.
- B. Where a use not listed is found by the Administrator not to be similar to any other permitted individual use or permitted group of uses, the use shall be permitted only following a text amendment in accordance with Section 3.18, Ordinance Text Amendment. The decision of the Administrator may be appealed to the Board of Adjustment.
- C. When considering the appropriate districts for a use not listed in the Permitted Use Table, the district intent statements (see Article 4, Zoning Districts) shall be taken into consideration.
- D. Determination of an appropriate group of uses for a proposed use not currently listed shall be made by applying the processes of NAICS standards and code numbers similar to the use proposed.

#### 5.2.2-Developments with Multiple Principal Uses

When all principal uses of a development fall within one use category (see Section 5.1, Use Interpretation) the entire development shall be assigned to that use category.

When the principal uses of a development fall within different groups of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

### **Attachment 1: ZTA 2023-21 Text Amendments – Page 3**

Where a use requiring approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

#### **5.2.3 Table of Permitted Uses**

The Table of Permitted Uses shows those principal uses that are permitted by right, permitted subject to limited use standards, or permitted subject to a Special Use Permit.







**Attachment 1: ZTA 2023-21 Text Amendments – Page 7**

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>Sectors 31-33: MANUFACTURING (cont.)</b>											
Ready-Mix Concrete Manufacturing	32732									P	
Concrete Pipe, Brick, & Block Manufacturing	32733									P	
Other Concrete Product Manufacturing	32739									P	
Gypsum Product Manufacturing	32742									P	
Fabricated Product Manufacturing	332									P	
Machine Shops; Turned Product; and Screw, Nut, and Bolt Manufacturing	3327								P	P	
Machinery Manufacturing	333									P	
Computer & Electronic Product Manufacturing	334								P	P	
Electrical Equipment, Appliance, & Component Manufacturing	335									P	
Transportation Equipment Manufacturing	336									P	
Furniture and Related Product Manufacturing	337								P	P	
Miscellaneous Manufacturing	339								P	P	
<b>Sector 42: WHOLESALE TRADE</b>											
Wholesale Trade	42	S							P	P	
<b>Sectors 44-45: RETAIL TRADE</b>											
Motor Vehicle & Parts Dealers	441	S					P		P		
Furniture and Home Furnishings Stores	442						P		P		
Electronics & Appliance Stores	443	S				P	P		P		
Building Material, Garden Equipment & Supplies Dealers	444	S					P		P	P	

**Attachment 1: ZTA 2023-21 Text Amendments – Page 8**

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>Sectors 44-45: RETAIL TRADE (cont.)</b>											
Food and Beverage Stores	445	§	§			P	P		P		
Health & Personal Care Stores	446	§	§			P	P	P	P		
Gasoline Stations	447	§				P	P		P		
Clothing and Clothing Accessories Stores	448	§				P	P		P		
Sporting Goods, Hobby, Book, and Music Stores	451					P	P		P		
Miscellaneous Store Retailers	453	§				P	P				
Non store Retailers	454	§				P	P		P		
Liquefied Petroleum Gas Dealers	454312									P	
<b>Sectors 48-49: TRANSPORTATION AND WAREHOUSING</b>											
Air Transportation	481								P	P	
Rail Transportation	482								P	P	
Truck Transportation	484								P	P	
Transit and Ground Passenger Transportation	485								P	P	
Interurban and Rural Bus Transportation	4852						P		P	P	
Taxi and Limousine Service	4853						P		P	P	
School and Employee Bus Transportation	4854								P	P	
Charter Bus Industry	4855								P	P	
Support Activities for Transportation	4881								P	P	
Support Activities for Road Transportation	4884	§					P		P	P	
Postal Services	491110	§	§			P	P	P			
Couriers and Messengers	492						P	P	P	P	
Warehousing and Storage	493	§							P	P	
<b>Sector 51: INFORMATION</b>											
Information	51					P	P	P	P	P	
Finance and Insurance	52	§	§			P	P	P	P	P	



**Attachment 1: ZTA 2023-21 Text Amendments – Page 10**

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>Sector 61: EDUCATIONAL SERVICES</b>											
Educational Services	611	P	§			P	P	P			
Business Schools, Computer & Management Training	6114	§				P		P	P		
Technical and Trade Schools	6115	§				P	P	P	P	P	
Other Schools and Instruction	6116	§				P	P	P	P		
<b>Sector 62: HEALTH CARE AND SOCIAL ASSISTANCE</b>											
Ambulatory Health Care Services	621					P	P	P			
<b>Except:</b> Outpatient Mental Health and Substance Abuse Centers	62142						P	§			
Hospitals	622	§				P	P	P			
<b>Except:</b> Psychiatric and Substance Abuse Hospitals	6222							§			
<b>Except:</b> Outpatient Mental Health and Substance Abuse Hospitals	62142						§	§			
Nursing and Residential Care Facilities	623	§	§			P	P	P			
<b>Except:</b> Residential Mental Retardation, Mental Health & Substance Abuse Facilities	6232	§						§			
Social Assistance	624	§				P	P	P			
Vocational Rehabilitation Services	6243						P	P	P	P	



**Attachment 1: ZTA 2023-21 Text Amendments – Page 12**

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>Sector 72: ACCOMMODATIONS AND FOOD SERVICES</b>											
Hotels and Motels	72111					P	D	D			
Bed and Breakfast Inns	721191	S	S		S	P	P				
All Other Traveler Accommodation	721199	S	S		S	P	P				
RV Parks and Recreational Camps	7212	SD					SD				
Recreational and Vacation Camps	721214	S									S
Rooming and Boarding Houses	721310	S				P	P				
Full Service Restaurants	7221	S				P	P	P	P	P	
Limited Service Eating Places	7222	S				P	P	P	P	P	
Special Food Services	7223	S				P	P	P	P	P	
Drinking Places (Alcoholic Beverages)	7224	S				P	P				
<b>Sector 81: OTHER SERVICES, EXCEPT PUBLIC ADMINISTRATION</b>											
Automotive Repair and Maintenance	8111	S					P		P	P	
Electronic and Precision Equipment Repair and Maintenance	8112	S					P	P	P	P	
Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	8113								P	P	
Personal and Household Goods Repair and Maintenance	8114	S				P	P	P	P	P	
Personal Care Services	8121	P	S			P	P	P	P		
Funeral Homes and Funeral Services	81221	S					P	P	P	P	
Cemeteries and Crematories Except: Private Cemetery	81222	S	S			S	S	S	S	S	



**Attachment 1: ZTA 2023-21 Text Amendments – Page 14**

Use Type	Ref NAICS	Zoning Districts									
		RA	RP	RM	MH	PD	GB	OI	IT	GI	EC
<b>MISCELLANEOUS USES (continued)</b>											
Private Cemetery less than 6,000 sq. ft.		D	D				D	D	D		
Private Cemetery 6,000 sq. ft. and larger		S	S				S	S	S		
Public Parks		P	P	P	P	P	P	P	P	P	
Private Residential Boating Facility		D	D	D	D	D					
Salvage Operations		S								D	
Storage of Merchandise, Materials or Equipment On Site Inside or Outside An Enclosed Building, Excluding Salvage		S							P	P	
Storage of boats and watercraft outdoors or on dry stack structures							S				
Sweepstakes Center							SD		SD	SD	
Telecommunication Facilities		SD	SD			SD	SD	SD	SD	SD	
Telecommunication Facilities – Public Safety		SD	SD			SD	SD	SD	SD	SD	
Temporary Manufactured Homes		P	P			P					
Temporary Modular/Manufactured Offices						P	P	P	P	P	
Temporary Fruit & Vegetable Stands		P	P								
Temporary Buildings for Construction or Development		D	D	D	D	D	D	D	D	D	
Temporary Events		D					D	D	D	D	

**5.3.3 Accessory Uses and Structures**

- A. Accessory Structure Setbacks and Separation Requirements
- 1) Accessory Structures 50-599 Square Feet In Area:
    - a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
  - 2) Accessory Structures 600-1,199 Square Feet In Area:
    - a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
  - 3) Accessory Structures 1,200 Square Feet in Area or Greater:
    - a) Same setback and separation requirements as principal buildings per zoning district regulations
- B. Cottage Occupation – ~~Cottage Occupations shall be permitted with an approved Special Use Permit in zoning districts indicated in Section 5.2.3, Table of Permitted Uses, with~~ Cottage Occupations are permitted in zoning districts indicated in Section 5.2.3, Table of Permitted Uses, only as an accessory use and require zoning approval. Cottage Occupations shall be permitted subject to the following limitations:
- 1) The use must be clearly incidental and secondary to the use of the property for residential purposes.
  - 2) The use shall not change the character or area of the structure or have any exterior evidence of the occupation.
  - 3) The floor area of the cottage occupation cannot exceed the total floor area of the primary residence.
  - 4) No cottage occupation shall be permitted which creates objectionable noise, dust, smoke, odor, glare, or traffic attraction greater than that of other residential properties in the vicinity.
  - 5) Workers not living on the property shall be limited to three (3) persons per day.
  - 6) Proposed Cottage Occupation permits in the GB, General Business district, shall not expand or increase the existing non-conforming use or structure.

**5.3.12 Miscellaneous Uses**

- G. Marinas (Commercial): Activities and possible uses on the marina or club property shall be limited to wet boat storage, dry stack boat storage, boat service and repairs, boat accessory sales, ship's store, coffee shop, boat trailer parking areas, automobile parking areas, launching ramp, piers and boat petroleum service areas. Additional uses permitted shall follow the Table of Permitted Uses for the specific zoning district.
- 1) Setbacks
    - a) Up to 35' in height: 100' front and 50' sides and rear.
    - b) Between 36' to 50' in height: Add two (2) additional feet of setback for every one foot in height above 35'.
  - 2) ~~Approved Special Use Permits are~~ Conditional Rezoning approval is required in all zoning districts unless the proposed facility is illustrated in conjunction with a development which requires a master development plan. Sufficient detail must be provided on the master plan to allow the Planning Board to make an informed decision on the facility's impacts to the surrounding properties throughout the public hearing process

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**Appendix A: Definitions**

**ARTISAN MANUFACTURING:** On-site production of goods by hand manufacturing involving the use of hand tools and small-scale light mechanical equipment. Artisan Manufacturing businesses may not exceed 2,500 square feet. Typical uses include woodworking, cabinet shops, electronic goods, food and bakery products, printmaking, leather products, clothing and apparel, glass products, paper crafts, ceramic studios, jewelry manufacturing and similar types of arts and crafts or small-scale manufacturing uses that have limited, if any, negative external impacts on surrounding properties, water resource, air quality, and/or public health. ~~Artisan manufacturing in the RP, Residential Performance zoning district may not include direct retail, loading areas or outdoor storage of products or materials.~~