

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, December 10, 2001. This meeting was conducted at 204 Ananias Dare Street, Manteo, North Carolina.

CALL TO ORDER 7:00 PM

MEMBERS PRESENT

Elmer R. Midgett, Jr. – Chairman	Mary Aldridge
John Myers, III	Marcia Parrott
Jon Britt	Joe Thompson
Joe Kierzkowski	

APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the November 13, 2001 Planning Board meeting, a motion to dispense with reading them and to approve them as submitted was made by Joe Kierzkowski, seconded by Joe Thompson.

Vote: Ayes – Unanimous

PUBLIC HEARING

Joe Britt – Duck – Rezoning Request

Due to Mr. & Mrs. Britt being Jon Britt's parents, a motion to allow him to step down for the review of this rezoning request was made by John Myers, seconded by Marcia Parrott.

Vote: Ayes – Unanimous

Planning Director Raymond Sturza told the Board that the Britt's have submitted an application requesting that an additional 300 feet of road frontage be rezoned from RS-1 to VC. In following the procedures outlined in the Dare County Zoning Ordinance this hearing was scheduled to receive public input.

Mr. Sturza stated that in following the procedures necessary and outlined in the Dare County Zoning Ordinance this hearing was scheduled to receive public input about the Britt's request. This hearing was advertised in the Coastland Times on November 26 & 28, 2001, and December 2, 2001. He further stated that is hearing is an optional hearing by the Planning Board which does not require advertisement, and based on the Planning Board recommendation, the Dare County Commissioners, if they choose to move forward with the request, will be required to schedule and conduct a public hearing. If they choose not to honor the request they can simply deny it at that time. The Dare County Board Commissioners are the Board of record, and the Planning Board is the Board of recommendation.

Mr. Joe Britt addressed the Board. He stated that he is requesting that 300 feet be added to an existing 850-foot area zoned for limited business in Duck. Of the existing 850 feet, 650 feet are now zoned C-1 and 200 feet is zoned Village Commercial. He further stated the family owns the 200 feet along with the 300 feet that is being requested for rezoning.

Mr. Britt stated the land adjoins the U.S. Army Corps of Engineers property on the north, the Currituck sound on west, and a business is owned on the south and NC 12 on the east. He stated that he is asking for VC zoning, the lowest use business zone, which allows limited commercial as well as residential uses. Mr. Britt stated that he asked that the property be zoned for Limited Commercial when zoning was originally implemented and has continued to ask ever since.

Mr. Britt stated some of his reasoning was that there were no subdivision restrictions on the property, and that it does not adjoin any residential use property but does adjoin an already existing commercial zone. He stated that at the time of the original zoning and his initial request the property was vacant. Mr. Britt stated that he is prepared to provide any plats, any dialogue the Board may want to see. He stated that he made is first formal application in 1986; no formal application made in 1979 when zoning was first started; it was a verbal application. We had hoped to be included in the rezoning of September, which culminated in September, but we were not and we ask for your consideration now.

Ray Sturza referenced letters of opposition that were submitted and included in the Board's packet, and read letters submitted there were not included in the Board's packet.

Public comments were received from the following:

1. Bart Smith, President of Duck Civic Association, resident of 121 Sea Hawk West in Duck, NC. Commented that Duck will become a town on May 1, 2002. He stated that he sincerely feels, as do the majority of the people in Duck, that this is an issue that should be dealt with by the upcoming Town council that will be seated May 1. He pointed out the limited commercialization of Duck. He noted that the Land Use Plan states that it should be limited commercialization with basically single-family residential homes. He asked that the Board recommend denial of this request due to fact that it goes against the Land Use Plan, the vast majority of the wishes of the residents in Duck, and the long time wishes of Duck.
2. Neal Blinken, neighbor to the north of the Britt's. Mr. Blinken stated that he is not speaking for or against the request. Mr. Blinken indicated that he is in favor of the future Duck Town Council handling this issue.
3. Martha McKeon, 107 Marlin Drive, Duck, NC; long time resident and an active concerned citizen. She stated the Britt property is adjacent to Duck Road, which has been the location of numerous traffic accidents eliciting the need for a special traffic warning light. Ms. McKeon expressed the opinion that further commercialization of this tract would exacerbate this particular hazard. Most of the citizens of Duck are working to prevent the widening of Duck Road and that is very crucial she thinks to this whole project.
4. Paul Keller, 125 Wiroans Ct., Duck, NC; on behalf of the Interim Council stated that the council has discussed this issue and would like very much to have action delayed until Duck becomes a Town and can look at all the issues more carefully. He stated that the

Town Council feels that they are not completely aware of what all of the issues are. Mr. Keller asked, if at all possible it could be delayed until such time as Duck becomes a town.

The public comment portion of this hearing was closed at 7:30 PM.

Chairman Midgett told the he cannot with a clear conscious support any rezoning on the Britt property. He stated that he feels like it is up to the Town of Duck to go forth with any rezoning issues.

Ray Sturza told the Board that it would be advisable for the Board to act on the request tonight. Failure to act within a certain amount time will assume approval. However, if the Planning Board feels that the matter is best left to the new Town Council that will be seated in May 2002, then a recommendation of denial would be in order. Mr. Sturza noted that any motion for denial should include a specific reason for the denial recommendation.

Mr. Sturza noted that the residents and property owners of Duck have traditionally opposed any zoning change that would increase the amount of commercially zoned property. He further noted that the Dare County Land Use Plan includes a policy that references "minimal commercialization with single-family homes as the preferred type of development".

Mr. Sturza stated the request is contrary to the Land Use Plan and recommended unfavorably on the request

After lengthy discussion, a motion to recommend a denial of the requested rezoning was made by John Myers, seconded by Mary Aldridge.

Vote: Ayes – Unanimous

A motion to bring Jon Britt back on the Board for the remainder of the meeting was made by John Myers, seconded by Mary Aldridge.

Vote: Ayes – Unanimous

OLD BUSINESS

Four Seasons West Subdivision – Duck – Preliminary Plat

Mike Robinson of Bissell Associates was present to represent this preliminary plat.

Chief Planner Donna Creef presented staff comments. She stated the preliminary plat for this division was tabled last month to allow additional time for the developer to acquire State review and approval of the stormwater plans and the sedimentation and erosion plans. The developer has secured these necessary permits and copies are on file.

Staff recommended preliminary plat approval.

A motion to recommend preliminary plat approval to the Four Seasons West Subdivision in Duck was made by Joe Thompson, seconded by Marcia Parrott.

Vote: Ayes – Unanimous

Ocean Isle Estates – Avon – Preliminary Plat

Eddie Valdivieso of Quible and Associates was present to represent the preliminary plat for this division.

Chief Planner Donna Creef presented staff comments. She stated that this item was tabled last month to allow revisions to be made to the configuration of the lots in the proposed division. Mrs. Creef stated the revised plat is a much better design and depicts a traditional layout eliminating the flag lots that were proposed last month. She noted that lots 18 and 22 have not been redesigned and the engineers and the developers have requested that those configurations be allowed to exist and that the final plat depict the setbacks to eliminate future problems with setback interpretations. She stated that the staff doesn't have a problem with that as long as the final plat depicts it that way and that language is included in the covenants to address the issues.

Mrs. Creef pointed out that a portion of the site is zoned R-1, (lots 26, 27, & 28) and the remainder of the site is zoned C-2. She stated that the C-2 district references the dimensional requirements of the R-3 for residential uses. The R-1 and the R-3 districts have different side and rear yard setbacks, which means that lots 26-28 will have different setbacks than the remaining lots. The plat should be revised to accurately state the zoning setbacks for the division.

Mrs. Creef noted that the Board discussed the buffer easement along NC12 last month. She stated that the developers have requested that this easement be limited to 10-feet in width. Mrs. Creef stated that a 10-foot access easement is acceptable with the condition that no accessory improvements will be located within the side yard setback areas on the four lots bordered by NC 12. She stated that she knows that all these lots are going to have pools on them and she would prefer it if there was a condition on the plat that there be no structural improvements located within that 16 foot setback. Regardless staff is requesting that the plat go forward with a condition that no structural improvement, i.e. pools, be located in that side yard as a safety precaution.

Mrs. Creef stated that the covenants should include language that restricts access on lots 14, 15, 25, 26, 27, & 28 to Ocean Isle Loop. She stated that the revised plat is acceptable and meets the technical requirements of the Subdivision Ordinance and therefore recommended a favorable report subject to the following:

1. The submission of a revised plat depicting the setback configurations for lot 18 & 22. The notes on the final plat and the covenants shall state that no variation in setbacks as depicted on the plat will be permitted.
2. The covenants include language restricting access to Ocean Isle Loop.

3. The road shall be constructed to meet all NCDOT standards and satisfactory comments from DOT concerning the suitability of the road improvements shall be submitted at the time of final plat review.
4. The submission of a revised plat stating the applicable setbacks for the R-1 & R-3 zoning districts.

Joe Thompson, seconded by Joe Kierzkowski made a motion to recommend preliminary plat approval for Ocean Isle Estates subject to the following:

1. Language stating that there is a 16-foot side yard setback for lots 18, & 22

Vote: Ayes – Unanimous

NEW BUSINESS

Joseph J. Klaus c/o Jay Wheless – Text Amendment (Section 22-22.1, R2-A)

Attorney Jay Wheless on behalf of Joseph Klaus was present.

Chief Planner Donna Creef presented staff comments. She stated that Mr. Jay Wheless has submitted a zoning amendment on behalf of Joseph Klaus. She explained that Mr. Klaus is seeking to add group developments to the list of permitted uses in the R-2A district. Mrs. Creef stated that group developments are projects that involve more than one principal use structure on the same lot and are subject to planning board review and Board of Commissioner approval.

Mrs. Creef noted that Group developments are automatically reviewed as conditional uses and the proper location of the text amendment would be under the section that lists conditional uses versus permitted uses. She stated that staff is supportive of the requested text amendment.

Mrs. Creef stated that the Zoning Ordinance was amended in 1994 and the sections that apply to Planned Unit Developments were deleted due to the language being extremely confusing and difficult to apply. She noted that when this amendment was districts that would allow group developments were not specified although planned unit developments were listed under the conditional uses.

Mrs. Creef told the Board that it is staff's recommendation that in addition to the request submitted by Mr. Wheless on behalf of Mr. Klaus that Section 22-31 be revised to read as follows:

(d) Group developments may be allowed in the following districts: R-2A, R-2B, R-3, RS-6, RS-8, RS-10, VC, VC-2, C-2, C-3, I-1, S-1, and CS. Only those uses listed as permitted and/or conditional uses in the applicable zoning district shall be considered for group developments. This language is not intended to allow any use as a group development that is not permitted by right in the applicable district.

After a lengthy discussion a motion was made by Joe Kierzkowski, seconded Joe Thompson to recommend the approval of the amendment of Section 22-31 as requested by the applicant and drafted by staff.

Vote: Ayes – Unanimous

Jay Mankedick/Island Queen, Inc. – Colington – Conditional Use Permit

Mr. Jay Mankedick was present for the review of this application.

Chief Planner Donna Creef presented staff comments. She told the Board this is a conditional use permit application for the operation of a tour boat in Colington. The site is zoned VC-2, a district that allows boat rental and launching facilities by conditional use.

Mrs. Creef stated that the site plan submitted by Mr. Mankedick indicates that a 49-person tour boat is proposed for operation from a property that has three existing buildings on it. One of the buildings will be removed to accommodate 25 parking spaces for patron and employee parking.

Mrs. Creef identified the following concerns:

1. The site plan depicts the parking improvements within the 30-foot CAMA buffer area, which will apply along both sides of the property. She stated that written approval from CAMA regarding the proposed parking within the buffer area is necessary.
2. The parking configuration depicts stacked employee parking on a section of road that previously functioned as SR 1217/Colington Road. Written comments from NCDOT concerning the status of this section of road and its use of the parking area is needed.
3. Lot coverage calculations and trash receptacles need to be depicted on a revised plat.

Mrs. Creef noted that the applicant has not provided any information on the location of a ticket booth or how ticket sales will be handled. It does depict a shed but does not disclose the use of this shed. If ticket sales are to take place on the site then employee restrooms must be provided on site.

The Conditional Use Permit application states that a CAMA permit application for the wooden pier has been submitted. The area of docking for the boat should be discussed to ensure that the tour boat does not impede the navigable waters of the canal. Staff visited the site and suggests that the Conditional Use Permit restrict docking to Colington Creek and not along the canal at the rear of the tract to avoid conflict with boat traffic in the canal.

Mrs. Creef stated that Fred Parker of the Environmental Health Department has indicated that more information than currently provided is needed and the suitability of the septic tank to handle the wastewater from the tour boat is questionable due to the age of the septic system and its previous residential use.

Based on the additional information that is needed staff recommended this application be considered a sketch plan.

Jay Mankedick presented a picture of the boat and told the Board that it came down from Michigan about two months ago. He explained that it is a steel hull, true paddle wheel boat certified for 80 up there, he is only going to certify it for 49. He stated the boat is currently in Wanchese going through certification now, which is a lengthy process.

Mr. Mankedick stated that there is enough room for parking with the 30-foot buffer along both sides, Colington Creek side and the canal side going down into Billy's Seafood. He stated that his tentative plan is 30 minutes between one tour coming in and one tour going out. He stated that doesn't anticipate selling tickets and no one will be stationed on the property.

The Board concurred to consider this review a sketch plan; no action was taken.

Teach's Lair Marina – Hatteras – Conditional Use/Group Development

Eddie Valdivieso of Quible and Associates was present for the review of this application.

Chief Planner Donna Creef presented staff comments. She told the Board the site is located at the southern end of Hatteras Village and has operated as a marina for numerous years. The property is zoned C-2 and there are two existing structures and marina improvements on the site. The owners proposed to construct three additional buildings, which has triggered the conditional use permit review.

Mrs. Creef pointed out that the site plan included in the Board's packet depicts the existing and proposed buildings. The additional buildings will consist of approximately 15,000 square feet of retail space and a 72-seat restaurant. Both of the uses are permitted in the C-2 district and 102 parking spaces will be provided on the site.

Mrs. Creef also noted that the septic improvements for the site are will be located across NC 12 on property also owned by the Teach's Lair Partnership. Permits for the septic improvements have been issued. Mrs. Creef stated she has requested that a revised site depicting the septic improvements be submitted.

The developers have obtained a Stormwater permit from the Division of Water Quality as well a NC Division of Land Resources sedimentation plan. A CAMA major permit has also been issued.

Mrs. Creef noted that the lot coverage information on the site plan should be more detailed. The Board will note that it list 62% lot coverage of impervious surface, which exceeds the 60% limitation of the C-2 district. This calculation was used for the stormwater permit and includes gravel, which is not counted in the County's definition of lot coverage and the site plan will be revised to reflect this correctly.

Donna Creef provided a draft CUP for the Board's consideration. Noted one outstanding issue to be discussed by the Board is an expiration date for the CUP... 3 years has been used in the past and seems to be adequate particularly since they have all their state permits.

Staff recommended favorable review of the site plan subject to the revisions discussed with an appropriate time limit for the construction of the proposed improvements.

The Board discussed parking for the development at length and advised the developer that the more parking he can show the better.

Marcia Parrott, seconded by John Myers, made a motion to recommend to the Dare County Board of Commissioners approval of the Conditional Use Permit as requested by Teach's Lair Marina subject to the following:

1. The addition of the minimum of 30 parking spaces being shown on a revised plat.
2. Depicting the septic and reserve area on a revised plat
3. Conditions as stated in memo of Donna Creef dated November 28, 2001
4. Work to be complete within 3 years from the date of approval by the Dare County Board of commissioners.
5. Dumpster site concerns as expressed.
6. Staff reviewing parking spaces.

Vote: Ayes – Unanimous

Slash Condominiums – Hatteras – Conditional Use Permit

Eddie Valdivieso of Quible & Associates was present to represent this application.

Chief Planner Donna Creef told the Board that the developers, Dixon & Hoyle Partnership propose to construct a multi-family project in Hatteras Village. The site is zoned C-2 which refers you to multi-family dimension requirements of the R-3 district. The property consists of 5.77 acres.

Mrs. Creef stated that five buildings with a total of 45 units are proposed. She noted that the R-3 standards allow for up to 10 dwelling units per acre and the dwelling density is calculated at

9.3 based on the number of proposed units and the area that they have. The site plan depicts 126 parking spaces but the Notes sections lists 115 spaces with 6 parking spaces for handicap purposes. There is also some reference to a restaurant, which is incorrect because there is no restaurant out there.

The site will be served by central water provided by Dare County. A wastewater treatment plant will be constructed to serve the site. The R-3 district states that multi-family projects must be served by a public or community sewage disposal system. The plant will be reviewed and permitted by the State and the NC Utilities Commission will regulate its operation.

A copy of the site plan was forwarded to the Dare County Fire Marshal for his review. His comments were included in the Board's packet.

A CAMA major permit and various other State permits are needed for this project. Applications for these permits were recently submitted to the State and will likely be issued within 60 days. The developer has submitted the plan at the local level to track simultaneously with State review of the project.

Mrs. Creef stated that based on the criteria of the C-2 and the R-3 zoning districts, the site plan meets the technical standards of the ordinance. She provided a draft Conditional Use Permit for the Board's review and consideration and noted that an expiration date for the project needs to be established.

A motion was made by Jon Britt, seconded by Joe Kierzkowski to recommend approval of the Conditional Use Permit as requested by the Dixon & Hoyle Partnership subject to the following:


1. Sale of the boat slip to outside the project will be prohibited.
2. 3 year expiration date

Vote: Ayes – Unanimous

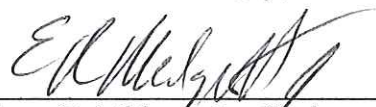
There being no further business before the Dare County Planning Board a motion to adjourn was made by John Myers, seconded by Jon Britt.

Vote: Ayes – Unanimous

Respectfully Submitted,


Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: 1/14/02


Elmer R. Midgett, Jr., Chairman
Dare County Planning Board