

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held its regularly scheduled meeting on Monday, July 8, 2002. This meeting was held in the meeting room of the Dare County Administrative Annex building located 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 Joe Thompson
Jon Britt Jim Kinghorn

MEMBERS ABSENT Marcia Parrott

APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the June 10, 2002 Planning Board meeting, a motion to dispense with reading them and to approve this as prepared was made by Mary Aldridge, seconded by Jim Kinghorn.

Vote: Ayes – Unanimous

OLD BUSINESS

OSPREY RIDGE SUBDIVISION – DUCK – FINAL PLAT REVIEW

Chief Planner Donna Creef told the Board the Dare County Board of Commissioners granted preliminary plat approval for this division on May 6, 2002. Staff visited the site on July 2, 2002 and verified the installation of the road improvements. Satisfactory test results on the road improvements have been submitted. Mrs. Creef noted that the roadside swales for the division needed further stabilization and a street and stop sign need to be installed.

Staff recommended approval subject to staff revisiting the site to verify the installation of the street and Stop sign and the further stabilization of the swales.

The developer Bob DeGabrielle and his attorney John O'Connor were both present.

Mr. O'Connor presented digital photos on a laptop computer depicting the hydro-seeded swales and the installed street and Stop sign.

Mrs. Creef stated that she would be more comfortable verifying the hydro-seeded swales and the installed signs in person.

Joe Thompson, seconded by Mary Aldridge, made a motion to grant final plat approval subject the verification of the swales and the installation of the signs (street & Stop).

Vote: Ayes – Unanimous

KINNAKEET SHORES, PHASE 17 & 18 – AVON – FINAL PLAT

Donna Creef told the Board that there is a lengthy history of Kinnakeet Shores that goes back to the mid 1980's. She stated that Kinnakeet Shores is one of the few subdivisions in unincorporated Dare County that was approved with a privately owned wastewater treatment plant and the lots on the soundside being approved at 12,500 square feet due to the wastewater treatment facility.

Staff visited the site on June 24, 2002 and identified the following issues for the Board's discussion and consideration:

1. The plat fails to depict the width of the streets, and fails to include a typical cross-section of the roadway.
2. The plat for Phase 17 notes that lots 1731 and 1735 feature a "temporary excavation". A visit to the site reveals these areas to be ponds as a result of ongoing excavation activities. Staff questions the wisdom of recording a plat depicting lots that are in reality are covered with water and are in the process of a temporary excavation.
3. Staff visited the site on the June 24th and found that none of the improvements were complete based on the length of paving and both the wastewater and water lines have not been installed.

Mrs. Creef stated a visit by staff in the Buxton office found that there were some surveying stakes marking the confines of the road, but no paving improvements had been installed and it did not appear that the sub-base had been installed.

In summary Mrs. Creef stated that there are certain technical aspects of the plat that need to be revised prior to staff recommending a favorable action by the Planning Board. This submission appears to be premature considering that once it is approved it is assumed to be ready for recordation and the transfer of real estate is allowed once it is recorded.

Staff recommended the plat be tabled pending the resolution of the three items above.

Mark Bissell of Bissell Professional Group was present and addressed the Board. Mr. Bissell presented a revised plat and apologized to staff because he stated he knows that staff doesn't like to receive additional information the night of the meeting.

Mr. Bissell pointed out that a typical cross-section has been added to the final plat. He explained that the solution for addressing the temporary excavation area is to delete those lots from the final plat until such time as the excavation has been filled back in and they can demonstrate the 12,500 square feet of buildable area on each of those lots. He stated there are actually 5 lots deleted from the final plat making is a 30-lot phase rather than a 35-lot phase with the idea that once that excavation has been completed and restored those lots can be submitted for review at a later date.

Mr. Bissell stated that the contractors indicated that the road will be paved and tested within the next ten days, for Phase 17, and would like to request a conditional approval of Phase 17, and

does not object to tabling phase 18 since it does have extensive additional work to be done. He also stated the water and sewer lines are complete, and are in the process of being tested. Phase 18 is anticipated to be complete and tested prior to the next meeting.

In reference to the submission of 5 lots proposed to be deleted from Phase 17 and resubmitted at a later date, Mrs. Creef pointed out that in the past when changes to the plat were made between preliminary plat approval and final plat approval the approval process went back to square one. She stated that she is not saying this is what needs to be done here, but wanted to make the developer aware that the rules applied previously allowing the 12,500 square foot lots may not apply if/when the developer decides to divide the property again.

Board member Joe Thompson asked for a timeline on the completion of the excavation.

Mr. Bissell stated the excavation is complete and it is just a matter of filling it back in.

After a lengthy discussion, a motion to table Phase 17 & 18 of Kinnakeet Shores Subdivision was made by John Myers, seconded by Jim Kinghorn.

Vote: Ayes – Unanimous

FIRST COLONY ESTATES – ROANOKE ISLAND – FINAL PLAT

Donna Creef told the Board preliminary plat approval for this division was granted by the Dare County Board of Commissioners on January 18, 2002 with a condition that the final plat and the covenants include language requiring the installation of culverts on each lot.

Staff has visited the site and finds that the road and the drainage swales were installed as depicted on the plat. The test results have been submitted and verify the paving improvements were installed according to NCDOT standards. A street sign and a stop sign need to be installed.

Mrs. Creef pointed out that the plat depicts a conservation easement that is related to the Corp permit issued for the property. She stated that language addressing this easement should be included in the covenants. The conservation easement is going to be recorded as part of the recordation of the covenants and will all take place at one time.

Staff recommended final plat approval subject to staff reviewing the covenants and verifying the installation of the street sign and Stop sign before the plat is recorded in the office of the Register of Deeds.

Mr. Ray Meekins of Seaboard Surveying and Planning was present.

A motion to grant final plat approval subject to staff verifying the installation of the street sign and Stop sign and reviewing the covenants was made by John Myers, seconded by Jon Britt.

Vote: Ayes - Unanimous

HEDRICK PARCEL – HATTERAS – CONDITIONAL USE PERMIT

Donna Creef presented staff comments on behalf of Ray Sturza. She told the Board the Conditional Use Permit application for the Hedrick Parcel was reviewed previously as a sketch plan. The site is located in the R-2A district in Hatteras Village. The Dare County Board of Commissioners enacted a moratorium on group housing developments on April 15, 2002. However, this project is specifically excluded from that moratorium since it was submitted prior to the enactment of the moratorium.

Mrs. Creef stated the applicants propose remove the existing structures on the site and construct two four-bedroom residential structures on the site. The site plan depicts the improvements in conformance with the setbacks of the group development standards.

The road improvements shall be paved and will be not less than 20 feet in width, exclusive of parking spaces. The site plan does not indicate the width of the road improvements. Parking areas for each structure are depicted as required by the Dare County Zoning Ordinance. However, staff is concerned that access for emergency vehicles to the residential structures may be difficult as currently depicted. Section 22-31 provides that all off street parking shall not interfere with access for emergency or service vehicles. Mrs. Creef suggested the developer consider alternate designs for the parking area.

Mrs. Creef noted the site plan references a wetland area without depicting definite boundaries. She stated additional information on this wetland area should be provided.

Mrs. Creef suggested the Board discuss an appropriate approval period and recommended three years for the completion of all improvements. She also presented a draft Conditional Use Permit for the Board's review and consideration.

Pending satisfactory resolution of the parking areas, staff recommended a favorable report on the Conditional Use Permit and associated site plan be forwarded to the Dare County Board of Commissioners.

Planning Director Ray Sturza told the Board he received a telephone call today from a lady who indicated that there were some people in the vicinity of the project that have some general objections to the project based on the fact that it was a dead end road and that it might be a burden on the traffic in the area. He stated he advised the caller to contact Mr. Thompson, Mr. Kinghorn, or Mr. Midgett as well.

Eddie Valdivieso with Quible and Associates, representing Paley-Midgett, Co. was present. He addressed the staff comments as follows:

1. Driveway issue – Mr. Valdivieso stated the site plan has been amended to depict a 20-foot drive coming in and splitting off to each house. He stated parking is also depicted for the individual houses.

Ray Sturza asked what condition is the road in?

Eddie Valdivieso stated the road is not in the best condition.

Mr. Sturza suggested the developer consider a redesign of the parking area configuration due to some resistance to stack parking of vehicles. He stated he fully understands that as proposed it meets the current standards, but to facilitate the smooth administration of the Conditional Use Permit he suggested a redesign that would eliminate the stack parking area.

Eddie Valdivieso stated that he will take a look at that and if it is something that is reasonable to do he doesn't see any problem in looking at that.

John Myers, seconded by Joe Thompson made a motion to recommend approval subject to the reconfiguration of the parking to eliminate the stacking to the greatest of the sites ability to accommodate the additional lot coverage, and to include a 3-year time limit on the completion of the project.

Vote: Ayes – Unanimous

John Frank Conner – Buxton - Rezoning Request

Planning Director Ray Sturza presented staff comments. He told the Board the Conner's have submitted a rezoning application for a classification change from an R-2A to C-3. The subject property is located in Buxton.

The following alternatives were identified for the Board's consideration:

1. Recommendation of a denial of the request. A denial recommendation should include a specific reason for a denial.
2. Recommend approval as requested.
3. Discussion of a consensus as to the best applicable zoning district.

Mr. Sturza stated, in the past the Planning Board has conducted an optional Public Hearing on rezoning request. The applicant has a lengthy history of service to the community and the assumption is that the rezoning request will facilitate additional retail space for the existing grocery store. Staff will defer to the Planning Board as to whether or not this request merits an optional Public Hearing conducted by the Planning Board.

Mr. Sturza stated staff is not particularly uncomfortable with either of the alternatives.

Mr. Ray Meekins of Seaboard Surveying & Planning was present to represent the applicants. Mr. & Mrs. Conner were also present.

Donna Creef stated she has not received any phone calls, or written responses on this matter. The property was posted, but adjoining property owners were not notified, but will be if we get to the point where the Board decides to have a public hearing.

Ray Meekins made the following points in addition to comments rendered by staff:

1. Why should it be considered commercial at all? The property is on highway 12 and the length of the road is largely C-2 & C-3.
2. Why should it be C-3 as opposed to any other commercial district? It is predominately C-3 up and down Highway 12. The adjacent property, owned by the Mr. & Mrs. Conner is zoned C-3. C-3 seems to be the ideal zoning district for consistency.
3. Regarding the parcel in question. It is very limited in its size; just over 12000 square feet. It is an old pre-existing parcel of land limited by septic setbacks off of Muddy Marsh ditch. The parcel is further limited by the zoning setbacks. Even if it were combined with Conner's grocery store, which is not a consideration at the time, it is not conducive to large-scale box type development due to its shape. It is just very narrow and cut.

Board concurred to schedule a Public Hearing for the August 12, 2002 Planning Board meeting.

Soundview Estates – Rodanthe – Preliminary Plat

Donna Creef told the Board the proposed subdivision is actually a revision to an existing 5-lot subdivision recorded years ago with the lots running from NC 12 to the Pamlico Sound. The site is zoned S-1 and was recorded based on the minimum lot size of 20,000 square feet.

Public water has been available in Rodanthe for several years now and the developer is now proposing to reconfigure the existing subdivision to consist of eight lots based on the minimum lot size of 15,000 square feet, install a cul-de-sac for road access eliminating the need for five direct driveway cuts on NC 12. All the proposed lots will be served by individual septic systems and central water. Individual lot evaluations have been conducted by the Dare County Health Department and the results are on file.

Mrs. Creef provided the Board with a revised site plans depicting the correct front and rear setbacks, which were previously depicted incorrectly.

Mrs. Creef noted that access to lots 1, 7, & 8 is restricted to Soundview Estate Court, as noted on the plat. The plat depicts a 10' buffer easement along these lot lines with a note stating that no pool improvements will be located within this area. Last month, the Dare County Board of Commissioners had an extensive discussion about pool improvements located in setback areas with the condition of approval for another division restricting pool improvements with the applicable setback area. This being the case, the buffer should be revised to correspond with the applicable setback area.

The site is zoned S-1m which permits all uses. The developer has indicated that the lots will be use residentially. Language restricting the use of the lots for residential purposes should be added to the plat and the covenants. The use of lots for residential purposes in areas that are zoned S-1 or commercial has become a recent concern with the Board of Commissioners in reviewing other divisions recently. Therefore, this condition will be recommended for all subdivisions that are reviewed by the Planning Board, where applicable.

Staff recommended a favorable report pending the resolution of the items identified.

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

Joe Thompson, seconded by Mary Aldridge made a motion to recommend preliminary plat approval subject to the following:

1. The covenants and the final plat shall contain language stating that the lots shall be used for residential purposes only.

Vote: Ayes – Unanimous

OTHER BUSINESS

Surf or Sound Realty – Avon – Conditional Use Permit

Mr. Dale Bob DeGabrielle, the developer and his attorney, Mr. John O'Conner were both present for the review of this application.

Donna Creef stated this item was added to the agenda last week as a result of the Dare County Board of commissioners meeting. She stated that the motivation behind adding it to the agenda at the last minute was that the Board of Commissioners has a reduced schedule during the summer months, and in an effort to be accommodating we placed them on the agenda.

Mrs. Creef stated this item was reviewed last month, and was forwarded with a favorable recommendation. There was considerable discussion at the Board of Commissioners meeting that centered on the lot coverage. There was a motion to send it back to the Planning Board to address the lot coverage. One of the Board of Commissioners recused himself from the vote; making it a 3-3 vote. Due no action being taken on this item by the Board of Commissioners, they requested the item be placed back on the Planning Board agenda.

Mr. Dale Petty and Mr. John O'Connor presented a letter from Attorney from David Dixon of Dixon, Dixon & Casey, A Professional Liability Company to Mr. Bobby Outten, County Attorney regarding the lot coverage for the property.

Mrs. Creef stated the letter indicates a disagreement with the interpretation from the County Attorney on the applicability of the lot coverage to the site. She stated this is her first time seeing the letter from Dixon, Dixon & Casey and cannot respond for Mr. Outten on this matter. She further stated that she doesn't know if the applicant has a revised the site plan. She stated she was advised that a revised site plan would be delivered on Friday but they were not.

Based on this latest development, staff recommended the item be tabled pending further instructions from the County Attorney.

Planning Director Ray Sturza stated, having read the letter for himself it appears to him that this is an attorney-to-attorney related matter and action can be taken once the differences are resolved.

A motion to recuse Joe Thompson from taking part in this discussion was made by Jon Britt, seconded by John Myers and Jim Kinghorn.

Vote: Ayes – Unanimous

Chairman Midgett stated that he took it upon himself and asked the Commissioners if he could bring this item back to the Planning Board, but with the letter from Dixon, Dixon, & Casey he doesn't see there is much the Planning Board can do tonight. He stated that he was prepared to recommend approval again if the applicants were willing to go with the lot overages that are allowed in the zoning districts, and resolve the access issues.

Mr. Dale Petty requested an opportunity to present his argument on the lot coverage issue. He stated that Mr. Ben Cahoon has prepared two different examples of the plan computing the lot coverage both ways.

Mrs. Creef stated that the County Attorney informed her that the lot coverage is 30% in the R2-A; 60% in the C-2, which she conveyed to Mr. Cahoon on Wednesday.

Mr. Petty stated he needs some guidance, and didn't expect to encounter some of the questions that came up at the Board of Commissioners meeting. He noted that one of the main issues that came was the condition of Westerly Lane. He further stated it is his plan to resurface Westerly Lane.

Mrs. Creef stated that the main concern express at the Board of Commissioners meeting was the condition of Westerly Lane, the increased traffic on Westerly Lane, and stormwater.

Ray Sturza stated that he is not comfortable with proceeding with this application due to not having the opportunity to review it before hand, and does not think it would be wise for the Planning Board to do take any action until the interpretation problem between the two Attorneys is resolved in writing to us so that we know where we stand.

Mrs. Creef indicated concern has been expressed about the following:

1. Stormwater run-off
2. Traffic up and down Westerly Lane
3. The condition of Westerly Lane

Comments regarding stormwater run-off, traffic/safety for children on Westerly Lane, the condition of Westerly Lane, a commercial building being located in a residential neighborhood, noise, were received from Mr. Barry Midgett and Mr. Ronald B. Watson. Concern was also expressed regarding notification to property owners in the vicinity of the proposed project. Letters from other property owners were submitted and are on file.

In reference to the notification issue, Donna Creef stated staff sent out letters to adjoining or abutting property owners.

After considerable discussion the Planning Board concurred to consider this a site review and took no action.

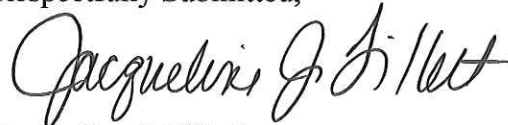
A motion was made by Jon Britt, seconded by John Myers to bring Joe Thompson back on for the remainder of the meeting.

Vote: Ayes – Unanimous

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

Vote: Ayes – Unanimous

Respectfully Submitted,



Jacqueline J. Tillett
Senior Administrative Support Specialist

Approved: August 12, 2002



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