

where both the applicant and the public can benefit from the requested change and these types of requests should be considered favorably. There may also be requests where the benefit accrues only to the applicant in a manner that is not consistent with the goals and objectives of the community as expressed in the Land Use Plan. In those situations, the request should not receive favorable action.

Mr. Sturza stated this request is not inconsistent with the goals and objectives of the Land Use Plan. If adopted, the request will address the zoning in the unincorporated portion of Roanoke Island and remove a potential for multi-family development in an area that is the subject of the petitioners request. Although, if approved, the request would eliminate a portion of the area zoned RS-8, other opportunities for multi-family land use will remain in the area. It is also noteworthy that the area the petitioners have requested to be rezoned includes land owned by parties who have not joined in the petition, which is somewhat unprecedented in unincorporated Dare County.

Mr. Sturza stated the final consideration is the intangible tone that may be set at a Public Hearing. Many boards have a tendency to view the public hearing process as a referendum that may control any decision about rezoning. However, this hearing is only one element of the evaluation process and in some instances those parties who attending don't reflect the overall public interest.

Chairman Midgett set the parameters for the public comment portion of the meeting. He stated that speakers will be allowed a maximum of five minutes and are to come forward, state their name and residence prior to rendering comments.

Public comments were presented by the following:

1. Mr. Tom White, Petitioner, stated he owns approximately one half of the tract proposed for rezoning. He stated that there are some property owners who are not petitioners that support the rezoning to R-1. Mr. White presented copies of letters from those property owners, (Mr. & Mrs. DeLeon, Mrs. Wilson, and Mrs. Jones). He further stated that this application, if approved, is consistent with the Land Use Plan. It is to down zone from multi-family to single family, and does support the public interest as stated in the Land Use Plan. He stated it is his opinion that the nature of the land wasn't considered in 1975 when the initial zoning took place on the north end of Roanoke Island. The property in this area proposed for rezoning consists of high rolling vegetated sand dunes. Vegetated with a very large pine forest, many maritime forest species, and is simply not compatible with a multi-family type use.

Mr. White also noted that the source of water is not appropriate for multi-family development due to the lack of a deep underlying aquifer like there is on the south end of Roanoke Island. He stated all the present uses there are now either single-family residential or vacant lots. He stated there is no proposed development plan proposed at this time for multi-family. Therefore, now is the proper time to rezone; not after a

developer comes in with a plan. All of the property surrounding it on the south and on the west is currently zoned R-1. So by rezoning this section from RS-8 to R-1 would be compatible with the surrounding land. We feel that it is not compatible as it is zoned at the present time.

2. Ken Daidone, Petitioner, stated that he and his wife immigrated to Dare County 20 years ago because of the following:
 1. The quality of life in Dare County.
 2. The sense of community in Dare County.
 3. The abundance of God's gift of nature that abounds on Roanoke Island.
 4. One of the best primary and secondary academic systems in the State of North Carolina.

Mr. Daidone stated that down zoning from a high density multi-family residential RS-8 to a low-density single family residential R-1 makes good sense for the following reasons:

1. Less dependency on vital natural and public resources.
 2. Minor impact on the natural surroundings.
 3. Continuity of community.
3. Jimmy Brown, 128 Forest Avenue asked that the Board act favorably on this request.
 4. Sybil Ross, 102 Grenville Street commented that the thing that seems to have not been noted about the North End of Roanoke Island is that the Maritime Forest inventory for the State of North Carolina includes the North End of Roanoke Island. She asked the Board to please give it the same respect and consideration as has been given to Buxton Woods and other Maritime Forest areas.
 5. John Wilson, stated he does not have property located in or near the area in question. Mr. Wilson noted that in 1976 the Dare County Land Use Plan designated the area in question as community. It stated that the area is an area where the natural resources are fairly tolerant to development at a low intensity. The areas will provide residential opportunities. In 1982 the plan was updated and designated the area rural residential. It stated that it was to provide for low-density residential and passive recreational use, primarily single family residences. In 1987 the plan was updated again; the area was designated community residential and the plan stated to provide for primarily single-family residential and passive recreational land uses. In 1994 the same designation and the same definition applied. The proposed 2002 Land Use Plan designates the area again community residential. It defines it as an area intended to provide for primarily single family residential and passive recreational uses. Mr. Wilson stated that a small section of the North End of our historic island was zoned RS-8 in conflict with each Land Use Plan that has ever been passed in Dare County. He stated that he thinks it was a mistake, and asked that the Board correct this mistake and rezone the area to the property single-family

designation. He asked that the Board help to preserve and protect the North End of our Historic Island.

6. Angel Khoury, 305 Essex Square in downtown Manteo & 230 Mother Vineyard Road, south of the area in question.

Mrs. Khoury commented that if that area was in fact zoned in conflict with the Land Use Plan, that it be rezoned to what it was intended to be, and what the citizens have ask for previously.

7. Jim McCreey , 113 Forest Ave. He stated that he hoped the Board would vote to change the zoning to R-1.
8. Doug Tillett, residence located south of the proposed property. Mr. Tillett stated he supports the requested rezoning.
9. Marjalene Midgett Thomas, 100 Seatone Lane. She stated all the property is single-family dwellings. She asked that the Board put it back the way it is suppose to be.
10. Terry McDowell – 314 Agona Street – Echoed sentiments.
11. Mr. Dwight Wheless, representing Janice Wheless and himself expressed opposition to the requested rezoning as it applies to their property. He stated that they purchased their 4.5 – 5 acres of property in the early 1970's. He stated that none of his property is marshy or low except along the sound. The land is hilly and in some points are about 70 feet above sea level.

Mr. Wheless stated that the property in question has never been zoned anything other than RS-8 in since zoning began.

The Planning Board in its original zoning plan for Roanoke Island picked these parcels to be zoned RS-8 for multi-family because the land is high the soils in the County can best filter the effluent of septic systems. Additionally we were near Morrison Grove already serving multi-family purpose at that time.

Mr. Wheless stated although his property is ideally suited for multi-family, he has never considered it for such use. He stated it is private, creates little disturbance for the neighbors because of the geography and it has ideal soils. He further stated that the property is for sale, and reducing the uses which can be made of the property or down zoning reduces its value. He stated that it is his and Janice's perspective that the Board is now being asked to down zone and devalue their property not because the property is not well suited to multi-family purposes, or because it has soils which won't perk, or because it would be difficult for government to provide sanitation pickup, fire or police protection all of the right reasons for rezoning changes; but, because the neighbors want us to pay

for their privacy, which they think is threatened now that we have offered the property for sale. Mr. Wheless stated that from their point of view it is not right, fair or good land planning, and there is no good or legitimate reason for a zoning change. Mr. Wheless stated that he greatly respects those who have spoken tonight, but he and Janice Wheless oppose this rezoning request as it applies to the property owned by them. He encouraged the Board to consider the petitioners request for their respective properties and the allow the Wheless property to be exempted from the rezoning request.

Public input portion closed at approximately 7:56 PM.

Joe Thompson commented that the rezoning to RS-1 is a positive thing. He stated that The Land Use Plan speaks to that, and when you look at the area that speaks to along with the natural resources in the area.

Chairman Midgett noted that the overriding public concern appears to be water and the concern that some of the wells would go dry on the North End of Roanoke Island. He further noted that a number of people expressed concern about the proposed rezoning being consistent with the past Land Use Plans Concerns that we have had some problems all over the Island with wells going dry. There was quite a bit of talk by a number of people about being consistent with the Land Use Plans, the past Land Use Plans which indicated the preferred use for property on the North End of Roanoke Island would be some sort of community and not multifamily.

Marcia Parrott stated she is familiar with this tract of land. She stated she came here in 1974 as a cast member in the Lost Colony, and this is property is without a doubt a beautiful piece of property. She stated that she considers it to be next to the Maritime Forest in Nags Head I consider it to be probably one of the most beautiful areas on the Outer Banks. I am real estate so I have a strong belief in private property rights. Normally I could not agree with probably could not agree with opposing an individual property owners right on how to develop his land, but I think we also have to take into account that I have recently seen other tracts of land. One comes to mind in particularly over on Colington Island where *it is not multifamily, it is single family and it has been cleared like a strip for an airport.* We've had the same problem up in Duck and when it comes to developers, the bottom line it usually comes down to the dollar. Unfortunately there are no guarantees when something is allowed about how a piece of property will be developed. It is kind of frightening to think of the bulldozer going in a flatten out that piece of property to build and you would have to do a lot of clearing. There is no way you can go in a build a multifamily complex that you don't flatten a great deal of that land. When you look at the comments that have been made and the concerns about the water and the other fragile aspects of our land down here that we are building on just as fast as we can I have to agree with Joe.

Mary Aldridge concurred with Marcia. The rest of this land around it is zoned R-1 it is not like we are taking one out and changing it and all of the rest of it is remaining. I think

water is a big issue here and the vegetation there and the dunes, I don't think that, and since there is no plan, no proposal for development at this time, we are not denying someone something that is on the table that they are wanting to do.

John Myers agreed with the other Board members.

Jon Britt agreed also and stated he is a fan of private property rights. He commented that it seems that this is one case that it seems to be the right thing to do with the land.

Jim Kinghorn didn't express any different opinion.

Chairman Midgett commented that he is of the opinion that the rezoning is the right thing to do.

A motion to recommend favorable action on the Petitioners request to change the zoning from RS-8 to R-1 to the Dare County Board of Commissioners.

Vote: Ayes – Unanimous

OLD BUSINESS

Colingwood Subdivision, Phases 2 & 3 – Colington – Extension Request

Donna Creef told the Board that the developers of Colingwood Subdivision have submitted an extension request seeking an additional 12 months to complete phases 2 & 3 of this division. These phases were granted preliminary plat approval by the Dare County Board of Commissioners in August 2001. The extension request was received by the Planning staff shortly after the submission deadline for the September Planning Board meeting. Due to the length of the September agenda we were unable to handle the matter in September, and elected to place it on the agenda for October.

Mrs. Creef noted that the Dare County Subdivision Ordinance states that an additional 12-months may be granted by the Planning Board if work to install the improvements has begun and substantial progress has been made toward the completion of the project. She pointed out that one condition of approval of Phases 2 & 3 was the installation of a left-hand turn lane off Colington Road into the site. The clearing for this work has been completed and the clearing and grading for the internal streets is also complete.

Staff recommended an additional 12 months as requested.

Mr. Crouse Gray, Attorney for the developers was present. Mr. Gray explained that his client had an opportunity to acquire this property (Phases 2 & 3) and are now requesting an 12 month extension to complete the project. He stated some dissention developed between his clients and the owner, Mr. Trenton Crow and that is how he became involved. Mr. Gray explained the

reason for the delay in submitting the request was because there were conversations as to whether or not his clients had the right to come before this Board and make a request for an extension. It was later confirmed by Mr. Starkey Sharp that the owner had no problem with the proposed buyers making the request. He stated that they have now worked through those issues and hope to close on the property in the very near future.

Board member Jim Kinghorn expressed concern regarding the extension request being submitted after the expiration date.

Mrs. Creef stated that knowing the history of the Board and not holding the 12 month period right to the date of Board approval, she did not have a problem with placing this item on the agenda even though the approval expired in August.

Board members Marcia Parrott and John Myers expressed concern regarding the appearance of the site. They concurred that the project is ugly due to the way the land clearing was handled.

Marcia Parrott stated that the Planning Board and County struggles with the need for affordable housing. She stated that these developers have created a negative attitude towards the need for affordable housing by the way this land was cleared. She further stated the way this project has been cleared and handled is not the way to win public opinion for developing property for affordable housing, which we all need.

After considerable discussion of the site and the progress of the work, a motion to grant the extension as requested to Phase 2 and 3 of the Colingwood Subdivision was made by Joe Thompson, seconded by Mary Aldridge.

Vote: Ayes - Joe Thompson, Mary Aldridge, Jon Britt, Marcia
Parrott, & Elmer Midgett
Noes – John Myers, Jim Kinghorn

Ray Sturza informed the Board that Stan White has successfully gained the attention of the Division and District Engineers in DOT to conduct a traffic/volume/flow analysis of Colington Road. He stated this is the first step along the way of having some kind of transportation improvement plan developed. He noted that the problem there is the terrain and the availability of the right-of-way.

Mr. Sturza also noted that the Board's concerns regarding the land clearing activities and some of the other things that have ensued on the Colingwood site have been shared with the NC Housing Finance Agency. He stated if you really want to get attention, go to the money.

Welles Division – Frisco - Final Plat

Motion to excuse Joe Thompson from the review of this division was made by John Myers, seconded by Marcia Parrott.

Vote: Ayes – Unanimous

Donna Creef told the Board this is the final plat for the Welles subdivision in Frisco. The 3-lot division was granted preliminary plat approval by the Dare County Board of Commissioners on September 3, 2002 with the condition that a revised easement agreement for lot 3 be recorded with the final plat. Mrs. Creef provided a copy of this easement agreement for the Board's review. She stated during the preliminary plat review, it was disclosed that lot 3 cannot be further divided without additional road improvements as documented in the easement agreement. This easement agreement has been updated to reflect the division of lots 1 and 2, which have frontage on NC 12.

Staff recommended final plat approval.

Mr. Dixon, Attorney representing the developer was present. Also present was Mr. Gary Price of Rankin Surveying.

A motion to grant final plat approval was made by John Myers, seconded by Jon Britt.

Vote: Ayes – Unanimous

Motion to bring Joe Thompson back on was made by John Myers, seconded by Marcia Parrott.

Vote: Ayes – Unanimous

NEW BUSINESS

Robert Hedgepeth/Linda Hedgepeth – Waves – Sketch Plan

Mr. David Dixon, Attorney was present to represent this sketch plan.

Donna Creef told the Board that a sketch plan for Robert and Linda Hedgepeth has been submitted for consideration. The site is located in Waves and the Hedgepeths are proposing to subdivide the property into 9 lots.

Mrs. Creef stated that the property for this proposed division runs from NC 12 to the Park Service property. Access to the lots are proposed via two 10' wide easements along the northern and southern boundaries of the property. Traffic along the easement is limited to one-way on portions. This proposed series of easements for access is unsatisfactory due to the traffic from nine lots and associated residential structures. Mrs. Creef stated this is a little bit confusing since the easements are labeled a 10' one-way easement, but then there is a handwritten note added that says two-way traffic.

Comments from the Dare County Fire Marshal also indicate uncertainty regarding the access.

Mrs. Creef stated that the setbacks contained on the plat are using the easement area as the side lot line. Using this configuration, the lots do not meet the minimum lot width requirement of 75'. She stated if the easement is considered the road with the front and rear setbacks applied in this configuration, then the lots meet the 75' lot width requirement. However, this layout compresses the building envelope to less than 30' of depth. Since the easements are proposed for vehicular access to the lots, the setbacks should apply to the edge of the easement area, not the property line, further limiting the available building envelope.

Mrs. Creef further stated that although the entire tract contains over 3 acres of land, the narrowness of the site limits its subdivision potential due to access and lot width standards of the Subdivision Ordinance. She also stated that staff is unaware of any previous subdivisions authorized by the County that uses 10' one-way easements for access and questions the wisdom of this proposed division based on its current layout.

Mr. David Dixon told the Board this is a sketch plan and he is requesting guidance from the Board. He stated his clients are not asking for approval tonight of this plan.

The Board discussed the sketch plan and expressed concern regarding the 9 lot layout with 10' easements proposed for access and indicated that possible alternate configurations should be developed.

OTHER BUSINESS

Initial consideration of draft sign standards

Donna Creef told the Board that the staff prepared a draft set of sign standards for consideration which have been circulated for public comment. She informed the Board of a workshop that was conducted in Buxton to receive comments on the draft standards. She stated this workshop was very well received and staff received some good comments. Those comments have been incorporated into the draft included in the Board's packet.

Mrs. Creef stated the Board of Commissioners had a hearing on October 7th, at which there was one speaker who commented on behalf of the Roanoke Island Voyages Commission. Those comments were included along with comments from the Board of Commissioners.

Mrs. Creef stated that the staff is in a position to ask the Planning Board for a recommendation tonight but if the Board is comfortable with the proposed standards, a recommendation may be made. She asked that the Planning Board review the proposed sign standards and provide staff with feedback. Mrs. Creef stated this item will be included on the November agenda.

Board member Jim Kinghorn suggested that the National Electric Safety Code, which applies to utilities be added to page 1 under general provisions. He stated this code provides for clearances

above signs. He also requested clarification as to whether or not stretching banners across public right-of-ways would be permissible.

Chairman Midgett asked the Board if they think a policy needs to be set regarding requesting an extension. He asked if the drop-dead date needs to be enforced.

Donna Creef stated that she spoke with the representatives for the Colingwood Subdivision two or three times in the month of July. She stated that she talked to Mr. Crow, Ray spoke with Starkey Sharp two or three times and she had several conversations with Crouse Gray and they got it in literally three days after Planning Board agenda was set. She stated it was after their date of approval, and she told Mr. Gray that we don't like to do it that way, but there have been instances in the past where it was close to the approval date and we would let you have a little bit of leeway. She further stated that the reason staff was so lenient in this is because the site looked so bad and she felt that it was in the County's best interest that the extension request be submitted and it not drag out because she was afraid that if we didn't grant the extension it would be left undone.

Ray Sturza stated that he doesn't think the Board needs to change or have a stiff policy because in 95% of the cases the intervening circumstances have not been controllable by the individual making the request for the extension. He stated that most of the time they seem to always be weather related and it only takes on really goofed up weather event to wack something out of schedule to where you don't complete it on time.


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

Respectfully Submitted,



Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: November 12, 2002



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