

## MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, September 8, 2003. This meeting was held in the meeting room of the Dare County Administrative Annex, 204 Ananias Dare Street, Manteo, NC.

**CALL TO ORDER** 7:00 PM

**MEMBERS PRESENT** Elmer R. Midgett, Jr. - Chairman

John Myers  
Richard "Ricky" Scarborough, Jr.  
Joe Thompson

John Finelli  
Jim Kinghorn

**MEMBERS ABSENT** Marcia Parrott

### APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the August 11, 2003 Planning Board/Zoning Board of Adjustment meeting, a motion to dispense with reading them and to approve them as submitted was made by Joe Thompson; this motion was seconded by John Myers.

Vote: Ayes - Unanimous

### PUBLIC HEARING

#### *Stewart R. Couch/Antonio Palazzolo - Avon - Rezoning Request*

Mr. Stewart R. Couch was present for the public hearing on the requested rezoning. Mr. Couch is requesting a rezoning of property currently zoned R-1 to C-2. He is also asking that another property owned by Mr. Antonia Palazzolo zoned R2-A be rezoned to C-2.

Senior Planner Donna Creef told the Board that this hearing was advertised and all of the adjoining property owners were notified of the hearing. She told the Board that Mr. Couch originally submitted this request in July at which time the Board instructed staff to schedule a Public Hearing on the request.

Mrs. Creef stated that Mr. Couch's request is based on the expansion of his real estate business and support facilities that he has planned as part of his property management business. She further stated that Mr. Palazzolo would like to have the commercial zoning to keep his options open with his restaurant.

Mrs. Creef stated The 2003 Dare County Land Use Plan policies on the commercial development recognize the need for the commercial land use to reflect the coastal village atmosphere in their building designs and signage etc. The Land Use Plan also includes policies that support the residential development as the preferred pattern of development.

Mrs. Creef stated that Mr. Couch is well aware of these policies, and his existing businesses are built along that same flavor of Hatteras Island and he is also aware of the sensitivity expressed in the Land Use Plan.

In weighing the merits of the rezoning Mrs. Creef suggested the Board consider the policies of the Land Use Plan update, the information submitted by Mr. Couch and any comments or input that the Board may receive at the public hearing. One area of concern that staff can identified with the sites that are zoned R-2A that he is requesting the C-2 zoning for is accessed from a narrow unimproved dirt path. Access to the R-1 site is from an existing paved private road that runs by the Avon Post Office. Mrs. Creef stated that staff is somewhat hesitant to endorse the expansion of the C-2 for the R-2A sites because of the access concerns. Mr. Couch may be able to provide additional information.

Mr. Couch addressed the Board and presented colored photos of the property in question.

There were no speakers at this hearing.

Joe Thompson commented that he feels like this is a good proposal and one that is positive for the community.

Jim Kinghorn concurred with Joe Thompson and stated that he is comfortable with the request.

A motion to recommend approval of the rezoning request as submitted was made by Joe Thompson, seconded by Jim Kinghorn.

Vote: Ayes - Unanimous

Planning Director Ray Sturza commented that Mr. Couch and his associates have done an outstanding job of putting together an information packet that made the application really easy to understand. He stated that Mr. Couch took the time to show staff around the site and explain the concept. He stated his efforts were instrumental in making the request one that everyone can understand and one that hasn't generated a great deal of controversy. He stated the Mr. Couch's hard work made staff's job easier. He thanked Mr. Couch for all of his work.

***Proposed Manteo Middle School - Roanoke Island - Conditional Use Permit***

Chairman Midgett explained that the site plan for the proposed Manteo Middle School has changed and the Board of Education will present the proposal and some alternatives. He stated that public comment on the proposal will be received after the Board of Education presentation.

Chris Venebal, with Moseley, Wilkins & Wood, gave an overview of the project and explained the new Manteo Middle School replacement. He stated that based on the independent traffic engineers study the building has been placed further south on the site to allow for 1000 feet of stacking space for cars. He stated that they plan to leave as many trees and the existing vegetation undisturbed to help cut down on noise, visual site lines and the impact on the adjacent neighborhoods.

Mr. Venebal stated that the Board of Education has been negotiating to purchase the extra property owned by Mr. Meekins to facilitate in the Mother Vineyard Road alignment.

Chairman Midgett stated that he has seen a letter from the owner of the property stating that he is willing to work with the Board on obtaining this piece of property.

Mr. Venebal stated that improvements to Hwy 64 would include widening on either side of the intersection to add a left turn lane both north and southbound. He stated they plan to leave as much of the existing tree line as possible except for the cut for the new access road. The view of the site from the highway should be pretty much as the way it is now.

Mr. Venebal stated there will be no permanent bleacher seating; portable roll out bleachers will be utilized. In reference to noise in the gymnasium, Mr. Venebal stated that when all the doors are closed there won't be much noise coming out of the building as the gym is fully air conditioned and the walls will have 6" of insulation in them. Currently there is no fencing being proposed but if it is the pleasure of the Board or the Dare County Commissioners, fencing can be placed.

Adjacent property owner Jerry Austin commented that he was opposed to the proposed Manteo Middle School project.

The following items were discussed.

1. Fill proposed for the site
2. Drainage
3. Access to school property from Creef's Ridge Road.
4. Residents expressed concern and the desire to have a fence to prevent cut through traffic.
5. Lighting of the athletic fields.
6. Having more than one ingress and egress to the site.
7. No access to the school site through any residential areas.
8. Noise
9. Restricted use of the facility
10. Fencing and buffering of the site.
11. Need for sidewalks.

Ray Sturza made the following suggestions:

1. Buffer areas be stacked or otherwise designated or confirmed by the County Engineer prior to the commencement of any land disturbing activities except for test borings.
2. Temporary fencing in the construction area during the period of construction.
3. Working hours need to be identified. Timeframe for working hours.
4. Construction trailer location and any temporary power pole/line that might be necessary to locate a construction trailer on the site. This will require a special use permit because the area is not zoned for trailers. The construction trailer will have to meet the minimum specifications for type III wind zone requirements and the building code requirements for FEMA as well.
5. Monitoring program for pedestrian traffic.
6. Covenants on the deeds is a matter best coordinated between the attorneys that represent the Board of Education and the County of Dare in terms of whether or not those covenants can be included. The reliability of there effectiveness would be best determined by the enforcement agency.
7. The traffic signal and the intersection alignment are going to be very important to the safety in terms of entering and exiting the site.

Jim Winebarger stated that the Dare County Board of Education prohibits burning on construction sites. He stated that the standard contract addresses temporary fencing in construction areas, working hours are spelled out and there are penalties for not adhering to those, the removal of vegetation and debris. He stated that all of those items are specifically identified in contract documents so that contractors can be held accountable.

A motion was made by Joe Thompson, seconded by John Finelli to recommend approval to the proposed project/Conditional Use Permit subject draft conditions on buffering, lighting and construction times. The Board did not make any recommendation on the two access proposals, but did indicate that this was a decision best left to the Board of Education, Roanoke Voyages Committee and the Dare County Board of Commissioners.

Vote: Ayes - Unanimous

***Marsh View Subdivision - Frisco - Preliminary***

Senior Planner Donna Creef presented staff comments. She told the Board that the design of for Marsh View Subdivision has been revised to reflect the confirmed wetland line, which has resulted in a reduction in the number of lots. The previous plat depicted 14 lots; the current proposal includes 11 lots. Mrs. Creef noted that this version includes 24' wide private easements to access some of the lots in response to the concerns previously expressed by the Board about numerous driveway cuts on NC 12. The width of the right

of way was previously indicated as 100', but the engineer has confirmed with NCDOT that the NC 12 right-of-way width is 60' in Frisco.

Mrs. Creef stated that staff is uncertain of the wisdom of this proposal. Although each lot meets the minimum standard for lot size, the predominant soils throughout the majority of the tract are not suitable for development. The remnant areas of developable land fit in an irregular pattern along NC12. Given the marginality of the overall tract the effects of the division would have numerous driveway cuts on NC 12 and perhaps this tract would be best suited for other than traditional subdivision use. Mrs. Creef suggested that it might be better for the property owners to pursue acquisition of the property as part of the Buxton Woods Coastal Preserve with money from the clean water trust fund or even pursue some sort of acquisition with the Dare County Water department since two of the well sites are located within the property.

Eddie Valdivieso of Quible & Associates, Inc., representing Triton Properties was present. Mr. Valdivieso provided the board with copies of a colored plat showing the uplands and wetlands break down. He explained that the yellow portions depict the uplands and that area has been confirmed by the Corps of Engineers. He stated that the line has changed since the previous submission not as a result of flagging, but that has been actually surveyed and is the lot line. Mr. Valdivieso further explained that the aqua green areas shown are owned by Dare County and are active well sites and the fourth shade of green depicted are wetland areas and Coastal Marsh.

Mr. Valdivieso presented a plat showing a typical layout of how the easements will be used. He explained that the initial submission depicted 14 lots and as a result of the actual wetland line has not been reduced to 11 lots. He stated that lots 5 - 9 depict two driveway cuts with a small service lane going through and accessing all of those lots. He stated that a similar layout is depicted for lots 1-4 with just one driveway cut from an access and utility perspective. He stated that his preference is to have two driveway cuts; a very similar layout depicted for lots 5-9 for lots 1 - 4. He stated that there would be a total number of five driveway cuts accessing the 11 lots.

Mr. Valdivieso stated that fire hydrants have been located, and he has been in contact with the Dare County Water Department concerning the impacts if any on the well sites. He further stated that the Health Department has been on the property and have found the property to be suitable for septic, and have asked that the proposed locations for septic systems on this new configuration be staked so that the suitability can be reconfirmed.

The Dare County Water Department reviewed well site in the middle of the property and have requested that the easement into their well site be realigned along the property line.

John Finelli stated that he can not recommend approval of this subdivision because he doesn't like seeing an entire subdivision being done with an easement as opposed to a

common area road. He stated that in this case he thinks an easement is being proposed specifically to get around the setback and lot size requirements, etc. He wants to treat the easement as a road.

After a lengthy discussion, a motion to recommend disapproval of the preliminary plat for the Marsh View Subdivision was made by John Finelli, seconded by Joe Thompson.

Vote: Ayes- (Myers, Finelli, Thompson, Kinghorn, & Scarborough)  
Noes - (Midgett)

## NEW BUSINESS

### *Cape Hatteras Landing - Buxton - Preliminary*

Senior Planner, Donna Creef told the Board this proposed division is located in Buxton on a site zoned C-3. The property has frontage on NC 12 and additional roads will be installed to access the proposed 16 lots.

Mrs. Creef identified the following issues for discussion:

1. Consistency with the Dare County Land Use plan and the policies that pertain to the wastewater treatment for the site must be addressed prior to moving forward with the review of the proposed division. She stated that the alternate method proposed, a centralized version of drip irrigation system, is not consistent with that policy.
2. Lot 7 has road frontage on NC 12 and staff assumes this lot will be reserved for commercial development. Access to this lot should be restricted to Queen Anne's Way and a note should be included on the plat and in the restrictive covenants addressing this. This restriction should apply even if the area depicted as lot 7 is further divided.
3. Lot 8 - Staff recommends a redesign of this lot to eliminate the retention basin from its boundaries. Staff is uncertain of the purpose of this retention basin and suggests that the Planning Board discuss its use with the developer.
4. Common area adjacent to lot 1 should be combined as part of lot 1.
5. Staff suggests a revised plat be submitted that depicts the footprints of structures and improvements on each of the lots, due to the large amount of wetlands on the site and the unusual configuration of some of the lots.
6. Long term plan for the use of lot 16 - Mr. Meekins has indicated that the basin area depicted as lot 16 is scheduled to be dredged later this fall and the dredge spoil will be used to increase the elevations of the proposed lots. Staff suggests that additional information on this activity and its potential impact on the wetlands and the adjoining properties be provided as part of the review process.

Planning Director Ray Sturza explained what the County is trying to achieve with the policy in the Land Use Plan. He stated that it is to rely primarily on the gravity base, nitrification bed field systems, or your traditional septic tank/drainfield system as the primary means of wastewater treatment unless there is an existing environmental condition that needs to be addressed or readdressed. Mr. Sturza used Stumpy Point as an example of where there are a lot of house that have straight pipes to the canal. He stated that Dare County is building a wastewater treatment plant to take those straight pipes off those canals. He stated that is an example of a case it is better to do it because there is no suitable soils in Stumpy Point. The policy says unless there are peculiar conditions, we want to rely on traditional septic systems, and don't advocate using these other experimental systems unless there is a particular need for them. What we found in this case is that there are in fact several locations at several of the proposed lots on the site that could use the traditional system but are proposing to use the EarthTek system. He stated staff has concerns about the reliability of the new technology on those sites that couldn't use the traditional system and so I hope that helps those of you who may have had some reason why were siting that policy.

Mr. John Williams, Soil Scientist with Land Management Group, Wilmington, NC made a presentation to the Board. Mr. Williams stated he is a licensed soil scientist in both North Carolina and South Carolina and also a registered sanitarian in North Carolina. He told the Board that he is not associated with EarthTek; nor does he have an invested interest in that company. However, he is interested in the Consortium of Institutes for Decentralized Wastewater Treatment, an organization of 24 universities throughout the United States and Canada that are wrestling with the same issues as Dare County regarding the development of questionable property.

Mr. Williams stated that he was contracted to go to the site and evaluate the soils to determine soil suitability for wastewater. Mr. Williams stated that this 14 acre site contains approximately 3 acres of soil that would be approved by NCDENR-DEH and the Dare County Health Department for wastewater dispersal. However, this 3 acre site is primarily located in a corner of the tract and has topographic concerns for conventional wastewater systems and has a highly irregular boundary. He stated that in order to reasonably be able to develop this property, a surface irrigation type system would be used.

Mr. Williams stated that the preferred method would be the installation of an EarthTek Envirofilter pretreatment wastewater system at each home site which is designed for nutrient removal as well as standard reductions in pathogens, solids, and organic matter. He stated that each home site will have a standard septic tank and a custom built wastewater treatment device with nutrient removal and chlorination. The final effluent will meet the State's criteria for reuse-reclaim wastewater standards and will be land applied to the area labeled as "Septic Area" using surface drip irrigation tubing.

In summary, Mr. Williams stated that he believes that the proposed plan can be implemented using EarthTek Envirofilter systems for the wastewater treatment systems

servicing all lots except lot 7. He further stated that the wastewater effluent will include nitrogen removal and chlorination and will be near drinking water quality and will be returned to the land via a drip irrigation system in the designated "Septic Area".

Mr. Frank Hurley with EarthTek of North Carolina, Inc. explained that the technology has been around for 30 years. He stated what makes them unique is that they are patented. He stated they are the first ones to engineer this system, so when it shows up on the job site it's ready to put in the ground. It is not site built. Mr. Hurley presented a small scale model of the EarthTek system. He explained how the system works. (Brochure on file)

Chairman Midgett informed Mr. Hurley that his proposal is a new technology, and is shaky at best with the Board. He stated that there is no harsher environment to eat up electrical circuits than Hatteras Island. He informed Mr. Hurley that the Board is not prepared to make a decision on this proposal at this time.

Chairman Midgett stated that at this time the Board will consider this review a sketch plan.

Mr. Meekins commented on the issues identified by Mrs. Creef as follows:

1. Lot 7 is about 356 feet with road frontage and we really feel like that making the provision that we could only access that lot through the interior of Queen Anne's Way would really be a detriment to the value of that lot with it being so deep. If it was only just one lot with a couple of hundred feet, that wouldn't be any problem. But when you have 356 feet of length we definitely would need at least one access between Queen Anne's and the property line. I wouldn't think that would be a real problem. That does have high potential of being commercial lot and is in a commercial district.
2. The retention pond is actually just a spot wetland like you see up there in lot 14. It can be just a pond, just an amenity pond for lot 8, but lot 8 has 17,118 square feet of upland and as the proposed site plan that we give you with each proposed lot it shows that we have plenty adequate to get a structure and all of the amenities on it.
3. No problem with adding the common area to lot 1.
4. We do intend to go along the wetland line with a two foot retaining wall and we have a permit for maintenance of the boat basin and be able to pump that material on to those lots 1- 6.

Board considered item as sketch plan. No action taken.

#### *Storm water discussion*

This item was deferred until next month, due to the late hour.



**Adjournment**

A motion to adjourn was made by John Myers, seconded by John Finelli.

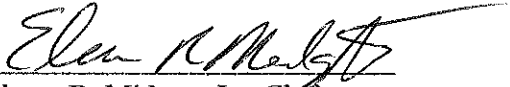
This meeting adjourned at approximately 10:20 PM

Respectfully Submitted,



Jacqueline J. Tillett  
Senior Administrative Support Specialist

APPROVED: October 13, 2003



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