

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, November 8, 2004. This meeting was held in the meeting room of the Dare County Administrative Annex building located at 204 Ananias Dare Street, Manteo, NC.

CALL TO ORDER

MEMBERS PRESENT	Elmer R. Midgett, Jr. – Chairman	Marcia Parrott
	John Myers	John Finelli
	Beth Midgett	Ricky Scarborough, Jr.

MEMBERS ABSENT	Joe Thompson
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APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the October 11, 2004 Planning Board meeting, a motion to dispense with the reading of them and to approve them with the addition noted by Mr. Finelli was by John Myers, seconded by John Finelli.

John Finelli noted a minor addition on page 4 under the list of conditions item number 4 should read typical road cross section.

Vote: Ayes – Unanimous

OLD BUSINESS

Duke Woods – Roanoke Island - Final Plat

Senior Planner Donna Creef presented staff comments. She told the Board this 24 lot subdivision located on Roanoke Island was granted preliminary plat approval by the Dare County Board of Commissioners on January 20, 2004 subject to recommendations of the County Engineer regarding drainage improvements, the covenants and agreement by Orville Beach West concerning Sunnyside Drive.

Attorney Bobby Outten, representing the developer was present.

Mrs. Creef told the Board that comments from County Engineer Steve Shriver indicate that driveway culverts should be utilized to ensure the proper function of the drainage swales. She noted in the past language to this effect has been included in the covenants and on the final plat. Mrs. Creef stated that her review of the covenants and the plat did not find this culvert language. She stated that the plat should be revised to include the recommended language. The covenants do include language to that effect.

Mrs. Creef noted as recommended at the preliminary plat review the plat depicts a 20' vegetative buffer along the adjoining subdivisions. She pointed out that the covenants mention the 20' buffer, however there were no restrictions on the clearing of the vegetative buffer or a mention of the 50' vegetative buffer that is included on lot 1. Mrs. Creef told the board that staff suggested some language be included in the covenants. She pointed out that item 9 of the covenants for the division discusses the vegetative buffer.

Mrs. Creef stated staff visited the site on November 1, 2004 and found the road improvements complete, and work on the road improvements on Sunnyside Drive had also been done. She noted that the swales on the roadside still need some stabilization. Satisfactory test results on the road improvements have been submitted and do reference testing that was done on the renovations to Sunnyside Drive as well. Mrs. Creef stated that the final plat will have to be signed by a representative of NCDOT prior to recordation.

Mrs. Creef stated that a letter from the State should be submitted concerning Sunnyside Drive. She informed the Board of the developer's position that the curves on Sunnyside Drive cannot be bought up to State recommendations unless additional property is acquired and that something other than the letter should be deemed acceptable. Mrs. Creef noted that the test results are indicative that the resurfacing of Sunnyside Drive has been bought up to the State specifications. Mrs. Creef stated that a street name sign and STOP sign needs to be installed.

Bobby Outten told the Board that it isn't possible to get a letter that says that the road meets the NCDOT standards because of the 90° turn in it that doesn't meet the standards. He stated the road is grandfathered under the old rules.

Planning Director Ray Sturza suggested the developers check with E-911 to avoid street name duplication.

Marcia Parrott made a motion, seconded by John Myers to grant final plat approval subject to the following:

1. Installation of street name and traffic control signs before final plat recordation.
2. Stabilization of the roadside swales prior to final plat recordation.
3. Revision of the final plat to include language addressing the installation of driveway culverts at each home site. The language in the covenants was indicated by the Board to be acceptable.

Vote: Ayes – Unanimous

Amelia Acres Subdivision – Roanoke Island – Sketch plan

Senior Planner Donna Creef informed the Board that the developers submitted this item as a preliminary plat, but the Ordinance requires that the storm water management permit from the State be in hand at the time the preliminary plat is submitted for review.

Therefore, since they do not have that permit, they cannot be considered for preliminary plat. She stated, she explained that to the developers when they submitted the plan, and they indicated that they would prefer for us to keep it on the agenda so that they could address any other issues that may arise from the review before they submitted the storm water management plan.

Mr. Ben Cahoon was present to represent the proposed division.

Mrs. Creef reminded the Board that this proposed division was previously reviewed as a sketch plan. At the sketch plan review it was noted that some geotechnical work needed to be done on the site to establish the suitability of the site due to claims that construction debris had been buried on the site for numerous years. Mrs. Creef told the Board that work was done and the developer has indicated that the engineered report has been completed but has not been submitted to the County engineer for review. She informed the Board that the County Engineer was present when the geotechnical work was being done and he can verify that they did not find anything.

Mrs. Creef discussed the following items:

1. Water – The developers are proposing to connect to the Dare County water system from Burnside Road, although an official request has not yet been made. She stated prior to proceeding with a preliminary plat, verification from the Water Department that they can in fact connect to the system will need to be submitted.
2. Wastewater disposal – Individual on-site septic tank/drainfield systems will be installed. Individual lot evaluations by the Health Department will necessary for the lots located in the vicinity of the pond that will be filled. Mrs. Creef requested engineering information on filling of the pond.
3. Stormwater - Information has been included on the plat. However, the amount of land disturbing activity is more than one acre and a State storm water permit will be necessary. A recommendation on the plat cannot be made until the State storm water permit has been obtained.
4. Mrs. Creef noted that the proposed division includes a proposal to relocate an existing 20' wide drainage ditch. She stated conversations with the County Engineer this drainage ditch handles storm water runoff from numerous properties in the Burnside area and not just the subject property. Mrs. Creef expressed concern that any changes to the ditch and its design may negatively impact the surrounding community. She stated that staff is extremely reluctant to endorse any plan that features a relocation or modifications of this ditch.
5. Mrs. Creef pointed out that the road improvements and lot layouts have been redesigned from the previous sketch plan.
6. Mrs. Creef suggested the Board discuss the design of lots 13 and 15 and recommended that a typical footprint of the proposed structures and parking improvements be depicted.

Mr. Ben Cahoon addressed the Board. He told the Board that he is one of the contract purchasers for the property. He asked the Board if the ditch could be culverted. He stated that the staff recommendation is against that, and his argument is that the upstream properties that are

drained by this ditch, canal, and stream whatever it is, already passes through a culvert.

County Engineer Steve Shriver provided two options to address the issue with the drainage ditch as follows:

1. Keep it in its present form as a stream, ditch, etc.
2. Culvert the ditch. This culvert should be fully designed by an engineer with a background in hydrology.

The Board discussed the ditch issue and concurred that the subdivision should be redesigned so that the existing drainage ditch on the property would not be relocated or altered as part of the development of the site. The Board expressed concern that the ditch extends beyond the boundary of the subject property and any relocation will alter drainage patterns of the surrounding community.

Sketch plan no action taken.

Colington Cut – Colington – Preliminary

Senior Planner Donna Creef told the Board this is a preliminary plat review. She stated the developers of this division have obtained their storm water management permit.

Mrs. Creef told the Board that the total site area is 120 acres in Colington. The developers are proposing 39 lots instead of the 41 previously proposed on the sketch plan. She stated the development will be served by central water from Dare County, and individual septic tank/drainfield systems will be installed. Mrs. Creef told the Board that an area of wetlands directly off Colington Road will have to be bridged. She stated that they have been working on that design.

Mrs. Creef pointed out that the subdivision has been redesigned since the Board reviewed it as a sketch plan earlier this year. The street layout has changed to include two small cul-de-sacs closer to Colington Road. The street names are not on the plat in the manner that we normally see them. She stated that when the plat is submitted to the Board of Commissioners the street names need to be depicted on the road like they normally are so that they don't have to hunt around for them. She noted that the main access road has been shifted to the east than previously depicted. The number of lots has been decreased from 41 to 39.

The developers have met with representatives of NCDOT concerning additional improvements to Colington Road. At the sketch plan review, it was the consensus of the Planning Board as well as the staff, that a left-turn land into Colington Cut would be needed. Based on meetings with NCDOT, State officials agree that a left-turn lane into Colington Cut would be Beneficial, but they cannot mandate that that left-turn lane be installed and can only recommend its installation. Mrs. Creef stated that a condition on the preliminary plat approval will be necessary.

Regarding wetland delineation, Mrs. Creef stated that a map has been submitted and is on file in the planning department. She pointed out that several of the larger areas have been labeled as "open preserve wetland" as a result of the Board's discussion at the sketch plan review. The covenants should include details on how the developers intend to preserve these wetland areas.

Mrs. Creef noted that at the sketch plan review it was requested that typical footprints of the structures, parking improvements and accessory uses be depicted on the preliminary plat. This has been done and a copy of the plat was provided for the Board's review.

Eddie Valdivieso of Quible and Associates told the Board that they did meet with representative from NCDOT on the property. At the suggestion of NCDOT, he stated they are moving the entrance road as far east from the toe of the bridge as possible. He stated this change is reflected on the revised plan. Mr. Valdivieso stated they do have the storm water plan issued from the State and have filed for a major CAMA permit for the bridge crossing. He stated the Major CAMA permit will not be issued until all other permits are in place. He further stated that they have also filed for some fill permits for a small road crossing across the wetlands area.

Mr. Valdivieso told the Board that the bridge is designed and will be constructed to NCDOT standards. The roads and the bridge are intended to be petitioned to be taken over by NCDOT whenever the required number of homes is built in the subdivision.

The Board discussed traffic flow into the property and advised the developers to develop a staging area for equipment to be submitted to staff prior to the commencement of construction activities.

Mr. Eddie Goodrich stated they will do whatever necessary to develop a plan to make sure what they are doing is safe. He stated that they have potentially talked with some of the adjacent property owners about locating a temporary construction easement on their property. He stated they will address the safety issue and submit a plan to Mrs. Creef and Mr. Sturza.

Marcia Parrott, seconded by Ricky Scarborough, Jr. made a motion to grant preliminary plat approval subject to the following:

1. A staging plan for equipment should be developed and submitted to staff prior to the commencement of construction activities.
2. The lot width measurements should be indicated for each lot.
3. A left-turn lane from SR 1217 for entrance into the proposed division shall be installed.

Vote: Ayes – Unanimous

NEW BUSINESS

Orion Heights – Roanoke Island - Preliminary Plat

Senior Planner Donna Creef told the Board that the amount of land disturbing activity is less than an acre and therefore does not require a State storm water permit. However, under the standards of the Subdivision Ordinance they do have to provide some information on storm water.

Access to the site is from an existing secondary road, SR 1355. New road improvements (45' right-of-way with 20' of paved improvements) will be constructed as an extension of Orion Lane. The plat needs to include a note that this proposed for a public road. The new road will provide access to lots 1, 3, and 6 – 11. Lots 2, 4, and 5 will be accessed from Wildwood Drive. A note should be included on the plat and in the covenants that limit access to the lots from only one street.

Mrs. Creef stated that the division will be served by individual private wells and on-site septic tank/drainfield system. Roadside swales are depicted in the typical street cross-section. The note section should be amended to include the amount of land disturbing activity in square feet, the amount of impervious coverage of the proposed road improvements and a table listing the amount of coverage permitted for each lot. The items should be corrected prior to submission to the Dare County Board of Commissioners for review.

Mrs. Creef pointed out that some of the lots include significant elevations and alterations of these dunes/elevations are regulated by 22-58.1 of the Dare County Zoning Ordinance. Mrs. Creef stated it is important that a note to this effect should be included on the final plat for recordation and in the covenants to alert potential purchasers of these restrictions. The layout of the lot lines will not create any inconsistency with the existing structures on lot 2 and lot 7.

Mrs. Creef commented that although land clearing is not regulated by Dare County, the developer may want to consider the inclusion of language in the covenants that encourages selective clearing of the vegetation on the lots only for those areas necessary for the placement of improvements.

Mrs. Creef told the Board that Mr. Meekins has indicated that they are in the process of the having the wetlands delineated.

Pending the revisions mentioned in the staff comments, Mrs. Creef recommended approval of the preliminary plat for Orion Heights Subdivision.

Mr. Mearl Meekins, representing the developer was present.

The Board discussed solid waste disposal for the subdivision.

Mr. Dwight Wheless was present and told the Board that they have tried to keep the garbage trucks out of there because they tear up the roads. He stated that most of the neighborhood

wanted to keep them out therefore they bring them out to the highway 64. However, he stated that it would be less trouble with the cul-de-sac that is proposed for the new road way, the trucks will be able to come in and turn around. He stated that he thinks it would be easy to have lot side pick up rather than out on the highway.

A motion to grant preliminary plat approval subject to the following conditions was made by John Myers, seconded by John Finelli.

1. Revisions to the preliminary plat to include additional information on storm water management.
2. Inclusion of a note on the final plat and in the covenants stating that the regulation of dune alteration on the lots is subject to Section 22-58.1 of the Dare County Zoning Ordinance.
3. Access to lot 3 shall be restricted to Orion Heights Drive. This information shall be noted on the final plat and in the covenants.

Vote: Ayes – Unanimous

Sapphire, LLC – Aaron Hill Harbour – Salvo – Conditional Use Permit

Senior Planner Donna Creef presented staff comments. She told the Board that Aaron Hill Harbour is a proposed 11-unit group housing development in Salvo, NC. It is a 9.77 acre tract zoned S-1. It is regulated by section 22-31 of the Dare County Zoning Ordinance which provides the standards for the group housing developments.

Mrs. Creef made the following comments:

1. Mrs. Creef stated that the site features an existing boat ramp and three buildings. The three buildings will remain on the site with one being converted to be used as a clubhouse for exclusive use of the residents of the group housing development. The other two buildings will be used as accessory storage buildings. The boat basin will be used for the exclusive use of the property owners. She stated that a note indicating exclusive use may be helpful on the site plan to avoid any confusion when it goes to the Board of Commissioners.
2. Separation standard - Each of the residential unit will consist of 6-bedrooms each. Section 22-31 requires 20 feet of separation between each unit. Mrs. Creef suggested this separation be noted on the site plan for each structure and not just the two references currently depicted.
3. Road Improvements - The proposed road improvements as depicted in the typical street cross section indicate 24' wide right-of-way with 20 feet of paved road improvements. Section 22-31 requires that the road improvements be of an impervious surface. However, the road layout varies from the typical cross-section in that the streets are only 16 feet in width and the road bed width instead of being 24 feet is 20 feet. Mrs. Creef recommended that the paved improvements be constructed to the same NCDOT standards as applied to subdivision roads with independent tests performed to verify the construction standards. Copies of Homeowners documents providing for the maintenance of the road improvements should be submitted. Mrs. Creef stated that in her discussions with the developers, she advised that

the turn around near unit 7 was unacceptable. Revisions have been made as depicted on the site plan and emergency vehicle turn around areas near units 1, 7, and 11 are proposed. She suggested the Board discussed the pervious pavers proposed for the turn around. Road names should be included on a revised site plan.

4. Parking Improvements - The parking standards have been designed based on the standards for single family homes. Using this formula, the number of required parking spaces can be decreased although for practical purposes it may be prudent to provide more than 2 spaces at each unit. Except for the spaces provided underneath each unit, pervious materials for the parking spaces will be used. Due to the proximity of the units to the boat basin, this is appropriate and will decrease the amount of runoff. Mrs. Creef suggested the developer designate an area for parking of boat trailers separate from the individual spaces reserved for each unit.
5. Wastewater – Mrs. Creef stated she is not sure whether all of it is going to require state level review.
6. Phasing – The site plan depicts a phasing line with units 1-7 in phase 2 and units 8-11 as phase 1. Mrs. Creef suggested that the numbering of the units be adjusted to be consistent with the proposed phasing. She also suggested that all of the infrastructure improvements (road, waterlines, and wastewater improvements) be completed as part of the phase one.
7. Stormwater – A storm water management plan is included with the site plan. The land disturbance will involve more than one acre and a permit from the division of water quality will be necessary. You will note that the storm water plan involves the creation of what they have labeled as “water quality wetlands” and are more detailed than the low-density roadside swale systems usually constructed for storm water management. Mrs. Creef noted that the sequencing of the storm water permit with County approval is always a point of discussion and as a result of a recent meeting called by Senator Basnight; this issue has been given added importance. Mrs. Creef stated that staff views the sequence of the submission of the item to the Board of Commissioners for approval without this permit as a procedural issue.
8. CAMA notation – The site plan depicts the structures and the 30-foot CAMA buffer setback. The structures will be located within the 75-foot CAMA area of environmental concern. A note to this effect should be included on a revised site plan.
9. Wetlands - A current wetland verification plat should be submitted.

Mrs. Creef informed the Board of concerns raised by adjoining property owner, Matthew Hall, regarding easement rights on the Aaron Hill property. She told the Board that she has been told by the developers that they are in negotiations with Mr. Hall. Mrs. Creef further stated that easement rights are generally a civil matter and we don't normally get involved in them, but if it is going to result in a change to the site plan, then certainly it is something that we need to be advised of.

Mrs. Creef provided a draft CUP for the Board's review and consideration.

Rick Willis, representing Sapphire, LLC and Linwood Stroud, Engineer was present.

Mr. Stroud addressed the following:

1. Roadway width being 20 feet rather than 24 feet is easily correctable. He stated that was a drafting error.
2. Issue related to the fire code and the turn around – He stated he has had a discussion with Mr. Remaley, Dare County Fire Marshal, who made some suggested revisions as a result of their conversation. He stated it is his understanding that Mr. Remaley is satisfied with the proposed solution indicated on the second site plan. Basically the State Fire Code in addition to specifying cul-de-sac type turn around gives you other options which include a hammerhead and a Y top turn around. What we have indicated on the plans is the hammerhead and a Y top even though it may be slightly modified than what was in the fire code it meets the intent. It was my understanding that Mr. Remaley was satisfied with the solution to that.
3. The wastewater system - The phasing of the project is such that phase one will require less than 3000 gallons per day of wastewater disposal which would fall within the jurisdiction of the local Health Department to approve the plan and then he stated they would go to the second phase which will require State approval.
4. Stormwater – Mr. Stroud stated he has been in contact with Bill Moore, Regional State Water Quality Engineer to discuss the best solution for the storm water for this project. Since it would not qualify for low density option where you can just use swales, he stated they discussed the best system and feel that what is proposed is the best, which is a constructed water quality wetland which will be built on upland and the site is being elevated by placing fill in the areas where the homes, roads, and septic tanks will be in order to help gain positive flow to the water quality wetland.

John Myers, seconded by John Finelli made a motion to recommend approval subject the following:

1. Renumber structures to conform to the phasing sequence.
2. The storm water management permit should be secured prior to initiation of the construction of the road improvements, with the understanding that they will go to the Board of Commissioners and have to plead their case.
3. Three years for overall completion of the project with the understanding that the road improvements will be constructed in the first year. There is language in the draft CUP that says they will submit test results to verify that the pavement meets NCDOT standards; those will be submitted to the staff as well as as-built surveys for each of the individual units once they are constructed prior to issuance of a certificate of occupancy.
4. Written verification concerning the designs and surface materials of the turn-around from the Dare County Fire Marshal.
5. Develop escrow instrument for the storm water system to address maintenance, to be reviewed and approved by the staff as well as the County Attorney.
6. Revisions to the site plan to address the correct roadway widths to be consistent with the typical street cross sections.
7. Revise the CUP to indicate no commercial activities shall be conducted on the site, and that the boat basin and boat ramp will be for the exclusive use of the residents.
8. The road names need to be provided on the site plan.
9. Any changes as a result of the access easement will result in the plan being resubmitted to the Planning Board.

Vote: Ayes – Unanimous

OTHER BUSINESS

Site Plan for Hatteras Island Plaza Shopping Center

Planning Director Ray Sturza provided site plans for the Board's review. He explained that the shopping center is getting ready to change ownership and the partnership that will take control seeks to develop some housing for employees of the Food Lion. He stated that in order to do so a separate entity needs to take ownership of what is identified in the upper right-hand corner of the site plan as parcel A where the units will be constructed. He further explained that they have a closing date set for the middle of November and they were operating under the assumption that dividing one parcel out of a bigger parcel was something that could be done administratively. There are statutory limitations on the way that can be done in North Carolina. It can be done rather easily if the original parcel is two acres or less. The original parcel is much greater than two acres and places it into the more detailed procedures that we use for approving subdivisions.

Mr. Sturza stated that the actual site specific plan for the employee housing will be submitted later. In order for the ownership change to be completed, a subdivision has to occur, this happens to be greater than the regulatory threshold that can be done administratively so a recommendation from the Planning Board and approval of the site plan by the County Commissioners is necessary.

Mr. Sturza stated that there will not be any road improvements necessary because the access will be through the existing shopping center and it will be a paper exercise in terms of approval of the final plat for the subdivision that will clear the way for the construction of the employee housing. In conjunction with that we also hope to solve a perennial complaint and that is the site behind the grocery store is a bit of an eyesore and the source of a lot of wind blown debris that leaves the Food Lion Center there and finds itself on the other side of the road or scattered about who knows where.

The action Sturza is asking the Board is to approve the parceling out of parcel A of the Hatteras Island Plaza Stonehaven site as a one lot subdivision.

A motion to recommend preliminary plat approval of parcel A being taken out of the Hatteras Island Plaza Shopping site was made by Marcia Parrott, seconded by Mary Beth Midgett.

Discussion: John Finelli asked who is pressing to have this done.

Mr. Sturza informed Mr. Finelli that it is R.V. Owens who is pressing to have this done.

Chairman Midgett stated he authorized this item to be placed on the agenda.

Vote: Ayes – Unanimous

Family Housing Incentive Standards – Text Amendment to Zoning Ordinance

Senior Planner Donna Creef stated that the Dare County Board of Commissioners appointed the affordable housing committee to draft this proposed standards. Procedurally, before the Zoning Ordinance is amended, the Planning Board has to review and approve it.

Mrs. Creef stated the Board of Commissioners will hold a public hearing. She stated on Monday, on the 15th she is going to stand in front of the Dare County Board of Commissioners and say that the Planning Board looked at this last Monday night and they will hopefully vote to schedule a Public Hearing. Mrs. Creef stated this was a directive from the Dare County Board of Commissioners and that is why the Chairman and the planning staff were put on the committee.

After a brief discussion, a motion to recommend approval was made by Marcia Parrott, seconded by John Myers.

Discussion: Board member John Finelli commented that he finds it very difficult to enforce this when you are talking about selling the property.

Mrs. Creef stated that the County Attorney has said it is enforceable. She has done a lot of work in it and that was the one question that a lot of the committee members had.

John Finelli asked what happens to the property if somebody buys it and then they are no longer in the eligibility category a year from now or what if they die, what happens to then?

Mrs. Creef told Mr. Finelli that she is not sure. She stated that is the purpose of the annual reviews and the conditional use permit. She stated that conditional use permits are issued and are subject to review by the planning board and approval by the Board of Commissioners. She explained that the conditional use permit will be recorded in the Register of Deeds office, and the applicants are made aware of the limitations up front.

John Finelli commented that he can see you doing that on rental property, but I don't see having any control over it if you do it that way.

Mrs. Creef stated that the committee deferred to the County Attorney, Norma Mills, on drafting the language and she feels confident that we can handle it.

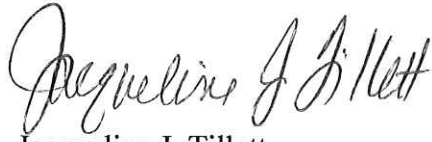
Vote: Ayes – Unanimous

A motion to adjourn was made by John Myers, seconded by Marcia Parrott

Vote: Ayes – Unanimous

This meeting adjourned at approximately 10:00 PM

Respectfully Submitted,



Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: December 13, 2004



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