

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, December 13, 2004. This meeting was held in the meeting room of the Dare County Administrative Annex, 204 Ananias Dare Street, Manteo, North Carolina.

CALL TO ORDER 7:00 PM

MEMBERS PRESENT Elmer R. Midgett, Jr. – Chairman Marcia Parrott
John Myers John Finelli
Joe Thompson

MEMBERS ABSENT

Richard “Ricky” Scarborough, Jr.
Mary Beth Midgett

APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the November 8, 2004 Dare County Planning Board meeting, a motion to dispense with reading them and to approve them as submitted was made by John Finelli, seconded by Marcia Parrott.

Vote: Ayes – Unanimous

OLD BUSINESS

You Can Fly, LLC – Rodanthe – Conditional Use Permit Amendment

Mr. John Harris was present.

Senior Planner Donna Creef presented staff comments. She told the Board that the site plan and conditional use permit for You Can Fly, LLC (John Harris) was approved earlier this year. The site plan has been amended from the original design as follows:

1. The parking improvements in front of the proposed restaurant have been reconfigured as well as the loading zone and dumpster areas. As suggested during the review by the Board of Commissioners, the parking improvements will be constructed of a pervious material versus an impervious material to decrease the amount of stormwater runoff.
2. Changes in the building design include an increase in the square footage of Building B and a reduction in the square footage of Building A; keeping the overall 20,254 square feet that was originally approved.

Another change involves the separation area between Building A and Building B. The amended site plan features an 8’ horseshoe shaped wooden walkway area.

Mrs. Creef stated staff met with Mr. Harris and Mr. Kasten a couple of weeks ago to discuss the proposed changes. She further stated that staff is not opposed to the requested changes. She told the Board that the scope of the changes exceed what can be approved administratively and therefore has been submitted to the Planning Board for review.

Mrs. Creef included a draft amendment to the Conditional Use Permit in the Board's packet for consideration. She stated that all of the conditions included in the original Conditional Use Permit will remain in force with the changes to the parking layout and surface materials and the description of the separation area between Building A and Building B.

A motion to recommend approval to the Board of Commissioners was made by Joe Thompson, seconded by John Myers.

Vote: Ayes – Unanimous

O.T. Enterprises, LLC- Avon – Final Plat

Senior Planner Donna Creef presented staff comments. She told the Board this plat was reviewed last month as a preliminary plat, and simply involves more than the two acres quoted in the standards for an exemption. She stated the Board of Commissioners granted preliminary plat approval last month. There were no improvements.

A motion to grant final plat approval was made by John Myers, seconded by Joe Thompson.

Vote: Ayes – Unanimous

NEW BUSINESS

Wooded Ridge – Buxton – Preliminary Plat

Senior Planner Donna Creef told the Board this is a proposed four lot subdivision to be located in Buxton in the SED-1 zoning district where the lots are required to be a minimum of 40,000 square feet. All of the lots have frontage on an existing road (Lost Tree Trail). Mrs. Creef stated that no stormwater management information is required because no land disturbing activities are proposed.

Mrs. Creef stated in response to staff comments, Mr. Don Rankin of Rankin Surveying as prepared revised plats for the Board's review.

Mrs. Creef stated that most of her comments focus on focus on the requirements of the SED, the land clearing standards as well as the wetland buffer standards and the fact that the individual property owners will have to contend with these standards at the time building permits are applied for. She noted that Mr. Rankin included the language from the SED Ordinance on the plat. This language will remain on the plat so that anybody who looks at the plat will be aware

of the requirements. She stated that this language will also be replicated in restrictive covenants recorded along with the final plat.

Mrs. Creef stated that other comments focus on the 30 foot easement used to access Flowers Ridge Road depicted along the edge of lot 4. She noted there is also an easement along the rear of lots 3 and 4 that serves as access to lots 1-3 of the NF and Doris Jennette Subdivision and the Timothy Jennette Subdivision. Mrs. Creef stated that she suggested a note be included on the plat clearly stating that these easements are used for access and that the owners of these properties cannot preclude access.

A motion to recommend preliminary plat approval subject to language being added to note number 3 clearly stating that access along the easements depicted on the Wooded Ridge Subdivision plat are for public ingress and egress and that access along these easements shall not be prohibited by the individual property owners of lots 3 and 4 made by John Myers, seconded by Joe Thompson.

Vote: Ayes – Unanimous

Cape Holdings Subdivision, LLC – Buxton – Preliminary Plat

Present to represent this preliminary plat was Eddie Valdivieso of Quible and Associates and the owner/developer Mr. John Robert Hooper.

Senior Planner Donna Creef presented staff comments. She told the Board that the site is zoned C-2 and is proposed for development into 10 single family lots. Residential development in the C-2 district is subject to the standards of the R-3 district. The proposed lots will be served by central water supplied by Dare County and will utilize individual on-site septic tank/drainfield systems.

Mrs. Creef stated access to the site will be provided from a new road proposed to be installed off of Old Lighthouse Road. She noted that the property features an existing 20' wide easement at the end of Tower Circle Road to access 3 existing lots. Mrs. Creef stated that this easement will also be used to access lot 4 of the proposed division. An additional 15' front setback from the easement area will be voluntarily established by the developer for this lot. Access to lot 5 will be restricted to ABC Avenue, and a note will be included on the plat precluding the location of pool improvements in the rear of lot 5 outside of the 20' rear yard setback due to the location of the access easement.

Mrs. Creef noted that the stormwater management information is required by the Subdivision Ordinance. She stated that the land disturbing activity appears to be less than an acre; therefore a State permit is not necessary. She further noted that the Subdivision Ordinance requires a table listing the 30% lot coverage and the amount of linear square footage in the road be included on the plat.

Mrs. Creef noted that there are some existing improvements on the site to be removed as part of the preliminary plat process. She stated these improvements should be completely gone prior to the submission of the final plat.

Marcia Parrott, seconded by John Finelli made a motion to recommend preliminary plat approval subject to the followings conditions:

1. The zoning classification and setbacks being corrected on a revised plat.
2. No structural improvements shall be located beyond the 20' rear yard setback on lot 5.
3. Additional stormwater information (lot coverage table, square footage amount of land disturbing area, proposed impervious coverage of road improvements) being included on a revised plat.
4. All existing structural improvements shall be removed from the site prior to the submission of the final plat.

Vote: Ayes – Unanimous

Carlyle on the Sound, LLC – Colington – Sketch Plan

Eddie Valdivieso of Quible and Associates was present to represent this sketch plan.

Senior Planner Donna Creef presented staff comments. She told the Board that this is a sketch plan for a 79 lot division in Colington. She stated the proposed division involves more than one acre of land disturbance and will require a State stormwater management permit prior to the preliminary plat review.

Mrs. Creef stated the property is zoned RS-1 and is accessed from an existing road (Tower Road), which is a private road adjacent to site of the water tower. New road improvements will be constructed as an extension of Tower Lane and various other road improvements are depicted. The new road will be constructed to NCDOT standards and proposed for public dedication.

The proposed division will be served by central water from Dare County and individual on-site septic tank/drainfield systems will installed for the wastewater.

Mrs. Creef told the Board that she included a copy of the RS-1 district intent statement with her comments. She stated that she thinks it is important for the County to keep this intent statement in mind during the discussion of the sketch plan for the development of this property and the layout of the improvements. She told the Board that the site features significant elevations and is heavily wooded with mature vegetation. She stated that there are a lot of wetlands throughout the property. Mrs. Creef suggested that development of the infrastructure improvements be planned in a manner that is consistent with the RS-1 intent statement and is sensitive to the natural features and topography of the property. She stated that the house plans and structural improvements should be designed to fit the property and not alter the lots to fit the improvements.

Mrs. Creef noted that alteration of dunes and elevations are regulated by Section 22-58.1 of the Dare County Zoning Ordinance and a note to this effect should be included in the covenants and on the preliminary plat to alert potential buyers of these restrictions.

Mrs. Creef briefly discussed the road improvements and the layout of the road. She stated that additional information on the existing elevations and proposed elevations of the road improvements should be provided. She commented that the road as currently designed traverses areas of wetland and uplands. Wetland filling and topography alteration will be necessary for the installation of the infrastructure improvements and such information should be included with the preliminary plat.

As was the case with Colingwood and Colington Cut, Mrs. Creef stated that the installation of a left turn lane from Colington Road onto Tower Road should be discussed and included as a condition of preliminary plat approval. She noted that the entrance to Tower Road from Colington Road is in a sharp curve and the design of the road improvements will need to be closely coordinated with NCDOT.

Although land clearing is not regulated by Dare County, Mrs. Creef suggested the developer consider including language in the covenants that encourages selective clearing of vegetation on the lots for only those areas necessary for the placement of the improvements.

Mrs. Creef stated that the installation of the road improvements will require filling of wetland areas. As currently designed, the road improvements form a continuous loop around a large wetland area behind lots 65-73. In an effort to avoid the alteration of this wetland area, Mrs. Creef suggested the developer consider a road design that eliminates this section of road between lot 7 and 65, which ends near lot 29.

Mrs. Creef suggested a redesign of the proposed access to lots 12-15 and 74-76 and a possible extension of the cul-de-sac to provide access to these lots be discussed. The sketch plan depicts a 45' easement to the adjoining property owned by Liberty Christian Church. A common drive/access road is provided from the principal road to lots 74-76. A similar road is depicted for lots 12-15. Lots 77, 78 and 79 currently have structures on them. The structure on lot 78 is going to remain. Mrs. Creef told the Board that staff is reluctant to endorse these lot designs based on the private access easements due to concern about the maintenance of these easements, trash pick-up, and access by emergency vehicles.

Mrs. Creef noted the sketch plan depicts three "open spaces", and suggested that the open space be better defined and language restricting the use of these "open spaces" be included in the covenants and on the preliminary plat to avoid the areas being confused for the development of a lot.

Mrs. Creef stated that a wetland verification plat, a stormwater management plan is needed. She stated that the existing improvements on lots 25 and 26 will be demolished as part of the Subdivision development

No action taken; sketch plan review.

Hattie Creef Landing Subdivision – Salvo – Sketch Plan

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

Senior Planner Donna Creef presented staff comments. She told the Board the property in question is located in Salvo and is part of a tract that was previously subdivided into Parcel A and Parcel B. She stated this sketch plan is depicting a further division of Parcel B into 18 lots with new road improvements being installed of NC 12 to access the 18 lots in Parcel B. The lots will be served by water from Dare County and individual onsite septic tank/drainfields will be installed. She noted that the sketch plan does not indicate the amount of proposed land disturbance, and additional information on the stormwater management will be needed at the time the preliminary plat is submitted.

Mrs. Creef stated that design of the oceanfront lots is somewhat unusual and the developer is considering the use of common driveways for some of these oceanfront lots from the cul-de-sac. She explained that the lots have been designed to take advantage of the view corridors so that the houses wouldn't be blocking the view. Oceanfront access easement is provided for property owners along lots 10 and 11. Access will be provided for the cemeteries on the preliminary plat.

Mrs. Creef noted that there is an existing encroachment on lots 15 and 16. She stated the encroachment is a fence that is going to remain. She stated the developers will work that out.

The Board discussed the proposed design of the oceanfront lots and the uneven alignment of the structures due to the lot design. It was noted that all of the lots will conform to the lot width requirements of the Zoning Ordinance and the Board's policy on flag lot design.

John Finelli expressed concern regarding the configuration of the oceanfront lots. He stated his personal opinion that the houses should pretty much be in line with one another.

No action taken; sketch plan review.

Western Dare, LLC Subdivision – East Lake – Preliminary Plat

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

Senior Planner Donna Creef presented staff comments. She told the Board this property exceeds the two acre tract size that is included in the exemption criteria and could not be handled administratively by staff. She stated that property is located in East Lake, NC and is an unzoned area of the County. She explained that it is a proposed re-division of Cahoon Acres.

Mrs. Creef told the Board that access to the site is from US 64. A 20' access and utility easement is used for access to lots 4a and 4b. The plat does not indicate any proposed improvements for the easement area. Mrs. Creef pointed out that the 20' access easement may

not be adequate for any future division of lot 4b. Language to this effect should be included on the final plat.

Eddie Valdivieso told the Board that the 20' access and utility easement is not an existing access easement. He explained that when he did the boundary for this property he found in the surveyors notes that there is no known recorded access to the back property. So that piece is sitting out there by itself and is landlocked as it stands. He stated the property is in single ownership and the owners are going to grant themselves an easement across the front to get to the back property.

Mrs. Creef stated that since 4b is 5 acres it would appear that if in the future that 4b is ever proposed for development that the 20' access isn't going to be enough.

Mr. Finelli commented if you are looking at that lot being part of the subdivision then it probably doesn't meet the minimum square footage. He further commented that if you look at just the back two as being part of the subdivision they don't seem to meet the Subdivision Ordinance regulations which require that all lots abut a street. He stated that he believes in an unzoned area you are still suppose to abut a street. Then in the definition of a street, an easement might fit if it is at least 30' wide. He stated that he doesn't see any elements of a subdivision here, and if it does become a subdivision, he thinks the third lot should be included in the subdivision.

Eddie Valdivieso stated the third lot Mr. Finelli is referring to is currently a lot of record. The house isn't the question, lot 4A and 4B that is the question. Lot 4 was basically cut into two with this front piece being the lot that was cut out and the residual was left.

Mrs. Creef stated that if there is a question about the access and whether it can be subdivided based on what Mr. Finelli has said then obviously we need get an interpretation from the County Attorney or address that before we go to the Board of Commissioners.

Mr. Finelli stated that he would have a problem with approving this subject to review by the County Attorney. He stated that he has no problem with somebody accessing lot 4 from this, but to go ahead and subdivide this when it does not abut a street, public or private. And when the 20' wide easement does not meet the definition in the Zoning Ordinance of a street. It is a subdivision with no roads, and no roads to them.

Mrs. Creef stated that she will discuss this matter with County Attorney Norma Mills and do some so research on Cahoon Acres in an effort to resolve this. She informed the Board that the Subdivision Ordinance will be amended to have Minor Subdivision standards added to them.

A motion to table the Western Dare LLC Subdivision plat was made by John Myers, seconded by Marcia Parrott.

Vote: Ayes – Unanimous

Stanford Holdings, LLC - Real Kiteboarding – Waves – Conditional Use Permit

Mr. Ben Cahoon of Cahoon and Kasten Architects was present to represent this application.

Senior Planner Donna Creef presented staff comments. She told the Board that this is a site plan for a proposed two building commercial group development. She offered the following comments for the Boards discussion:

Proposed Improvements - Two buildings dedicated to a mixture of commercial uses and 14 residential units are proposed for the site. The residential units will be targeted to kiteboarders. Staff suggested that a parking area for trailers be designated on the site plan to ensure that parking for the residential units and retail areas are not used for trailer storage by renters of the residential units. Staff also suggested that the proposed buildings be labeled (Building A and Building B) with a breakdown of the square footage of each structure and dedicated use provided on a revised site plan. Public restrooms will be required in the commercial areas as required by the North Carolina State Building Code.

Watersports rental – The rental of personal watercraft and other watersports equipment is proposed as part of the commercial uses. Details on the number of personal watercraft and other motorized and non-motorized water sports equipment should be provided. Other topics for discussion in relation to the watersports rental include the hours of operation, storage of the equipment, idle zones, use of the boat basin, etc. A draft Conditional Use Permit included with written staff comments includes similar conditions as those used for the You Can Fly, LLC Conditional Use Permit previously authorized. A location for storage of the watersports equipment should be designated on the site plan. The Draft Conditional includes the same language for idle zones and distances as used for the You Can Fly Conditional Use Permit.

Mrs. Creef informed the Board of an e-mail she received from Mr. Mike Halminiski a copy of file. Mr. Halminiski's e-mail expresses concern regarding operation of the wave runners at excessive speeds, the placement of jumping ramps in the Pamlico Sound, noise, compliance with county sign and flag ordinance and the distance of the operation of personal watercraft from the shorelines when operating at high speeds.

Parking Improvements – The parking calculations indicate a total of 99 spaces are required by Ordinance. A note on the site plan indicates that cross-sharing of 10 spaces is requested. The Zoning Ordinance does not provide for shared parking spaces except for churches, theaters, or assembly halls. Any decrease in the number of parking spaces must be authorized by the Zoning Board of Adjustments, the only agency authorized to vary the regulations of the Zoning Ordinance. The size of the buildings should be decreased or a variance from the Zoning Board of Adjustments issued before a recommendation on the site plan can be made. Mrs. Creef stated that the site plan depicts two driveway cuts of NC 12 and should be redesigned to eliminate one of these cuts. The size of the dumpster site seems inadequate for the scope of uses proposed on the site. The location of the loading zone is impractical for use by the second building. The site plan indicates the parking improvements will be "grassed gravel over grass pave". Section 22-31 requires a paved drive aisle. Although the individual parking spaces do not need to be of an

impervious surface, due to the proximity of the site to the Pamlico Sound, the use of pervious parking spaces seems more practical and with the paved drive aisle would be consistent with Section 22-31.

Buffers – The site plan does not depict the adjoining land uses. Buffers are required in the S-1 district for commercial uses that abut a residential use or residential zone. Details on the buffer should be provided on a revised site plan if the property abuts any residential use or vacant property.

Existing improvements – The site plan depicts an existing one story frame dwelling and a block barn. Details on the use of these structures and how they will be incorporated into the commercial development are needed.

Sign regulations – Real Kiteboarding is the subject of unresolved sign ordinance violations at their business site. Numerous attempts for voluntary compliance have been unsuccessful. The Draft Conditional Use Permit contains conditions on the use of signage have been included as well as a monitoring condition.

In summary, Mrs. Creef recommended this submission be considered a sketch plan to allow for the resolution of the parking issue by either the issuance of a variance by the Zoning Board of Adjustment or revisions to the proposed improvements to decrease the number of spaces. Additional information on the watersports rentals, the location of the residential units, buffers, etc is needed. Mrs. Creef stated staff is reluctant for the Planning Board to endorse the site plan contingent on this information being provided.

Marcia Parrott commented that she has a problem in dealing with this organization if they have already been in violation of regulations and have made no effort to comply. She asked why the Board should work to try to make something work for this applicant who has had no regard for the County Ordinances up to this point.

Mrs. Creef stated that they did take down their logo flags but continued to fly big red flags. She stated that she thinks they can work through it

The Board discussed the items identified by staff and offered the following comments:

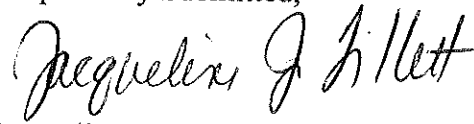
1. Revisions to the proposed size of the buildings are needed to conform to the Dare County parking regulations. Any decrease in the number of parking spaces will require a variance authorized by the Dare County Zoning Board of Adjustments. It was noted that no hardship exists for the granting of such a variance.
2. The Board requested that the owner, Trip Foreman, be present at additional meetings to answer questions and discuss the proposed project and operations of Real Kiteboarding.
3. The Board indicated that the use of boats for towing of kiteboarders was preferred versus the current practice of the use of the personal watercraft for this purpose. There will be no rental of personal watercraft on the property.

4. Building elevations of the proposed structures should be included with any revised site plans.
5. Phase 2 approval of the wastewater improvements from the State will be necessary before the item can be submitted for consideration by the Board of Commissioners.

No action taken; item considered a sketch plan.

There being no other business before the Dare County Planning Board a motion to adjourn was made by Joe Thompson, seconded by Marcia Parrott.

Respectfully Submitted,



Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: January 10, 2005



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