

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, February 14, 2005. This meeting was held in the meeting room of the Dare County Administrative Annex building, 204 Ananias Dare Street, Manteo, NC.

CALL TO ORDER 7 PM

MEMBERS PRESENT Elmer R. Midgett, Jr., Chairman John Myers
 John Finelli Ricky Scarborough, Jr.
 Joe Thompson Beth Midgett

SWEARING IN OF NEWLY APPOINTED MEMBER

Robert Lewis was administered the Oath of Office by Jackie Tillett.

APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the January 10, 2005 meeting, a motion to dispense with reading them and to approve them as submitted was made by John Myers, seconded by Joe Thompson.

Vote: Ayes – Unanimous

OLD BUSINESS

Amelia Acres Subdivision – Roanoke Island – Sketch Plan

Planner Ryan Simons presented staff comments. Mr. Simons told the Board that previous discussions of this proposed division indicated that the existing pond would be filled and the drainage ditch relocated. The developer has since decided to leave the pond and drainage ditch as they currently exist. It was recommended that the sides of the drainage ditch be stabilized.

Mr. Simons told the Board that previous discussions also suggested that the proposed site had previously been used as a dump site. A report by GET Solutions has found that there was no subsurface debris, and recommended that an environmental assessment be conducted. Mr. Simons recommended that individual lot assessments be conducted by the Dare County Health Department to determine the suitability of the water and septic.

Mr. Simon noted that the developer previously indicated a desire to extend the County waterlines to the proposed division. The developer has now decided not to extend any waterlines on Roanoke Island and has opted to utilize private wells.

Mr. Simons told the Board that a storm water plan will be submitted with a site plan when the preliminary plat is submitted for review.

The Board discussed this sketch plan and concurred that the layout is much better than the previous submission.

No action – sketch plan.

Board concurred the conceptual plan was good.

James F. Bagwell, Jr. – C.H. Fulcher Tract – Frisco – Conditional Use

John Myers made a motion to table this item until the March meeting to allow the Chairman to meet with the Building Inspector, seconded by Joe Thompson.

Vote: Ayes – Unanimous

Hattie Creef Landing, LLC – Salvo – Preliminary Plat

Eddie Valdivieso from Quible and Associates was present, as well as the developer.

Senior Planner Donna Creef presented staff comments. She told the Board this is the preliminary plat for Hattie Creef Landing subdivision. The Board reviewed this proposed division as a sketch plan in December 2004. She stated that the Subdivision Ordinance was amended some time back to address storm water management and new subdivisions. It was included in the ordinance at that time that for those subdivisions that had more than 1 acre of land disturbance requires a State permit and that permit needs to be in hand prior to submission of a preliminary plat. She told the Board that the developers submitted this subdivision at the submittal date three weeks ago with hopes that the permits would be back from the state. Mrs. Creef stated she received a letter from the State Thursday or Friday saying that they had a change in staff and that it was going to be taking a little bit longer to review storm water management permits. She stated the item was already on the agenda, staff work had already been done so she felt that we would proceed with the planning board review with the understanding that if everything else falls in place that we could include it as a condition that it not go forward to the Board of Commissioners until that storm water management permit is actually in hand.

Members of the Planning Board expressed no problem with proceeding with the review of this proposed division without the issuance of the State Stormwater management permit.

Mrs. Creef stated that at the review of this division in December it was noted that the design of the oceanfront lots is non-traditional and would appear to be inconsistent with lot width standards. She noted that the Subdivision Ordinance specifically establishes *minimum* standards for lot width and *minimum* building setback lines. Mrs. Creef provided the Board with copies of this language. She further stated that the fact that it says minimum and it doesn't say that you can't do anything beyond that has led to the staff interpretation that these lots do in conform with the minimum lot width. She further stated that the ordinance does not provide a maximum standard for the establishment of the building setback line and if the developer or the property owner chooses to exceed the minimum of 25' front building setback line, which is the case with

lots 7, 9, & 11, that would be interpreted to be consist with the standards of the Subdivision and Zoning Ordinance. Mrs. Creef stated that if the Planning Board agrees with the staff interpretation that a note be included on the plat and in the covenants that the setbacks for these lots are as depicted cannot be changed by the property owner or the contractor at the time the building permit is being sought from the Planning staff. She noted that the Zoning Ordinance also defines a rear lot line as "not less than 30' long and wholly within the lot". She stated these lots do conform with that definition as well.

Mrs. Creef told the Board that access to the improvements will be important particularly along the oceanfront lots. Typical layouts for the parking and structural improvements should be provided to determine consistency with the Zoning Ordinance. She stated there are standards in the Zoning Ordinance for flag lots that require a minimum area or an access road of gravel.

Mrs. Creef stated that the developer is choosing to do some common driveways, and illustrations of the concept of the common driveways were provided for the Board's review.

A wetland fill permit for the road improvements is pending.

Mrs. Creef pointed out that there is a cemetery located on parcel A. She stated there will be an easement provided to that cemetery that is not included on the plat, but will be shown on a revised that goes in front of the Board of Commissioners. She noted that the plat does not depict any area for the location of a subdivision sign and should be included on a revised preliminary plat.

Mrs. Creef recommended preliminary plat approval subject to the following:

1. A note added to a revised preliminary plat limiting the movement of the building setback lines as depicted on lots 7, 9, & 11 at the time of construction.
2. An easement to the cemetery from Hattie Creef Landing Court being depicted on the plat.
3. Depiction of the subdivision sign located on a revised plat.
4. Stormwater permit in hand prior to submission to the Dare County Board of Commissioners for review.

A motion to recommend preliminary plat approval subject to the conditions identified by staff was made by Joe Thompson, seconded by Ricky Scarborough, Jr.

Vote: Ayes – Unanimous

Carlyle on the Sound Subdivision – Colington – Preliminary Plat

Senior Planner Donna Creef presented staff comments. She provided the Board with a copy of the engineer's response to her comments that she received on Friday.

Mrs. Creef told the Board that when the Board reviewed this item as a sketch plan it featured 79 lots, and as a result of some of the comments the Board offered at the sketch plan review, the subdivision has been redesigned. She noted that a traditional cul-de-sac has been included for access to lots 12-16 which is an improvement in the overall design of the division. A section of the Bramble tract has been eliminated for development at this time. As discussed at the sketch plan stage a left turning lane from Colington Road similar to what we have required on the other subdivisions there in Colington will be installed, and Tower Lane will be improved to NCDOT standards. Copies of the deeds for the property that authorizes the use of Tower Lane as entrance to the subdivision have been submitted.

Mrs. Creef discussed the following items:

1. The development of a land disturbance/dune alteration or management plan by the developers in consultation with the Planning staff. This plan shall be developed during the installation of the infrastructure improvements and completed before final plat submission to the Planning Board.
2. Installation of buffer areas along Tower Road. The type of buffer shall be left to the developer's discretion.
3. Language being included on the plat and in the covenants restricting the use of the conservation/open areas for buildable lots.
4. Phasing of the development
5. Wetlands alterations necessary for the construction of the road improvements
6. Impact on the schools. Analysis will be provided to the Board of Education on possible impacts on the facilities at First Flight Elementary, Middle, and High Schools.
7. Storm water management permit

Mrs. Creef suggested the following conditions to be attached to preliminary plat approval if the Board is so inclined to make a recommendation:

1. Installation of a left hand turn lane into the site from Colington Road.
2. Development of a dune management plan, construction management plan, as detailed by the staff in consultation with the County Engineer and the Planning staff as part of the preliminary plat improvements. The idea being that plan be developed so that when they come back in front of the planning board for final plat approval we can say these are the details of the construction management plan that we worked out.
3. Installation of a buffer along Tower Road.
4. The submission of a storm water management plan and State permit prior to submission to the Dare County Board of Commissioners for review.
5. Wetland verification plat signed by the Corps of Engineers.

John Myers, seconded by Joe Thompson, made a motion to recommend approval of the Carlyle on the Sound subject to the conditions recommended by Mrs. Creef.

Vote: Ayes – Unanimous

Mrs. Creef stated that if there are any changes in the water line improvements that have to be made to Colington Road as a result of the installation of the left turn lane into Tower Lane that will be the developers cost.

Real Kiteboarding, Phase 1 – Waves – Conditional Use Permit/Group Development

Mr. Ben Cahoon of Cahoon and Kasten was present to represent this CUP application and site plan for a group development. Also present was one of the co-founders of Real Kiteboarding Mr. Trip Foreman.

Mr. Cahoon stated that at the last meeting most of the questions about the proposal regarding the operations. Mr. Cahoon presented a 2 minute video presentation of the operation of the Real Kiteboarding facility.

Senior Planner Donna Creef presented staff comments. She stated this item has been previously reviewed as a sketch plan. It was suggested at the sketch plan review that the owner/operator of Real Kiteboarding attend the Planning Board meeting to answer questions regarding the operations of the watersports business. Mrs. Creef stated that she received a letter (attached to staff comments) from the owner, Trip Foreman which provides some additional information regarding the use of the slider board, outdoor amplification systems, jet skis and how they flowed with the operation and the impacts on the adjoining property owners.

Mrs. Creef stated that the property is zoned S-1 which permits all uses. An application for a CUP has been submitted because they are doing two buildings on one large piece of property. One building being dedicated for their lesson area, a warehouse, and a retail space. The second building will be 14 multi-family condominiums that will be marketed towards individuals coming down to do the kiteboarding.

Mrs. Creef stated there will be no personal watercraft rented from the site, nor will launching of privately owned personal watercraft be allowed on the site. She provided the Board with a draft CUP with conditions for the Board's review and consideration.

Mrs. Creef stated the site plan has been revised to include the adequate number of spaces without the previously requested "shared parking". The site plan depicts what they describe as grass gravel over grass paved. The Zoning Ordinance does not require paved parking lots. Section 22-31 requires a paved drive aisle.

Mrs. Creef noted that there was some discussion previously of a restaurant in building one. She stated that the parking calculations do not provide for restaurant seating.

The use of outdoor amplification systems in the letter from Mr. Foreman states that they have one tournament per year. Mrs. Creef stated that the hours of operation included in Mr. Foreman's letter are consistent with the noise ordinance for Dare County.

Mrs. Creef pointed out that the site plan depicts a “planted buffer” adjacent to the adjoining residential uses. Details on this “planted buffer” are needed. She stated the adequacy of the buffer cannot be established until such time that the buffer has been installed. She further stated that maintenance of the planted buffer will also be necessary to ensure its survivability and longevity.

Mrs. Creef told the Board that a State wastewater permit will be needed. This permit is a 3-phase process. She suggested that this project be forwarded to the Board of Commissioners once the second phase of the State wastewater permit process is complete.

As noted previously, there have been some sign ordinance issues with Real Kiteboarding. Mrs. Creef stated that Real Kiteboarding has informed staff that they are going to work with staff to conform to the sign ordinance.

Mrs. Creef noted that information on the removal of the existing improvements should be noted on the site plan. She suggested that the storage of rental equipment and other watersports equipment be discussed with the applicant.

In reviewing the draft CUP, Mrs. Creef asked if the Board would indicate whether the language in condition #6 about the operation area and the distance of the area is adequate.

Mr. Cahoon told the Board that they have no objections to any of the technical issues raised by staff.

Mr. Foreman addressed the conditions listed in the draft CUP. He also provided the Board with an information packet consisting of the following:

1. Copy of the CAMA permit.
2. Copy of a police report.
3. Receipts for replacing the flags
4. Copy of correspondence with Dixon and Dixon following up on the signage issue.
5. Copy of the local property owner that was allowing us to store the sliders on their property.
6. Copy of the Ten Commandments of PWC which is part of the coaches’ manual of which the number one instruction on that is to operate your ski like a 30’ boat. It goes into detail about how to operate it. But they are not operated doing donut, porpoises, buzzing the shore. Policy is enforced with a \$200 fine if any one is caught breaking the rule.
7. Copies of the media coverage we have received in the national and international magazines.

Mr. Finelli asked how the developers plan to handle the stormwater runoff off of the roofs of the two buildings.

Mr. Cahoon stated that they are going to need to split the stormwater off of the main building. He explained that a portion of that will go into stormwater basin A, and a portion will be guttered

into essentially the porch and a portion of the western part of the building will be guttered and directed into Stormwater basin C. All of the water off of the residential building will go into stormwater basin D.

Ricky Scarborough questioned the storage of fuel for the personal watercraft.

Mr. Foreman stated that there would not be any fuel storage on the site, and fuel for the watercraft will be transported by truck.

Mr. Foreman expressed no problem with the hours of operation. He stated currently they store all of their kiteboarding equipment in a barn located in the backyard near the water. He stated they do not rent kiteboarding equipment and the use of personal watercraft is for the sole purpose of instruction, water support of their clients, water safety and event management.

A motion was made by Joe Thompson, seconded by Robert Lewis to recommend approval of the Conditional Use Permit for Real Kiteboarding subject to the understanding that the item will not be forwarded to the Board of Commissioners until the second phase wastewater approval from the State Division of Environmental Health is complete and the conditions as outlined in the Conditional Use Permit prepared by staff.

Vote: Ayes – Unanimous

NEW BUSINESS

Buddy Foster – Hatteras – Conditional Use Permit

Senior Planner Donna Creef told the Board that Mr. Buddy Foster has submitted a revised site plan to include an office on his property in Hatteras. The previous submission was an application to expand his existing boat sales and display facility in Hatteras Village to include boat building and repair. Last month Mr. Foster had a conflict with the meeting and wasn't able to attend.

Mrs. Creef reminded the Board that the text of the C-2H zoning district was amended in 2004 to add boat building and boat repair facilities to the list of conditional uses.

Mrs. Creef told the Board that the existing building was permitted as a boat display and sales building. Now that the language has been expanded, Mrs. Creef stated that Mr. Foster is applying for a conditional use permit so that he can do boat building and repairs. The language in the C-2H text amendment was drafted at the request of Mr. Foster and his site meets the six specific conditions included in the C-2H district.

During the text amendment process, Mrs. Creef stated she was contacted by one of the adjoining property owners who expressed concern about noise and odor from the proposed boat building facility. The installation of wooden opaque fencing in the area where the Foster property adjoins the Boyle property may be appropriate to address her concerns. Mrs. Creef stated that

odors from the facility will depend on the wind conditions and mitigation of this aspect of the facility will be difficult. However, it is important to note that the residence on the Boyle property is approximately 200 feet from the building and that distance should help with those concerns.

Mrs. Creef provided a draft CUP for the Boards consideration. She noted that the draft CUP does not address the office proposed by Mr. Foster. Mrs. Creef told the Board that she doesn't think the inclusion of the office will be a problem, but additional information will need to be submitted in an effort to determine whether the lot coverage and setback requirements can be met.

Mr. Foster stated that there is approximately 50 feet between the buildings.

Mrs. Creef stated that before this goes before the Board of Commissioners the proposed office will have to be added to the site plan by the surveyor.

Chairman Midgett suggested this proposed be reviewed by the building inspector and health department and then come back to the Planning Board.

Mrs. Creef reminded Chairman Midgett that the health department doesn't review anything that the Planning Board does. Since the proposed office is such a late submittal, she suggested the item be tabled one more time to allow Mr. Foster time to get better prepared for a site plan review.

Mr. Foster stated that he would just take the office off to avoid further delays.

Mrs. Creef stated that Mr. Foster can take the office off and come back at a later date for an amendment to the Conditional Use Permit.

A motion to recommend approval of the site plan and Conditional Use Permit as drafted by staff was made by Joe Thompson, seconded by John Finelli.

Vote: Ayes – Unanimous

Allison Fagley – Frisco – Zoning Amendment

The applicant Allison Fagley and Joe Fagley were present.

Senior Planner Donna Creef told the Board that Ms. Allison Fagley has submitted a request to amend the text of the SED-1 zoning regulations to add "large child care homes" to the list of permitted uses. Ms. Fagley currently operates a child care home in Hatteras and has purchased property in Frisco with hopes of relocating.

Mrs. Creef stated that in 1990 the Dare County Board of Commissioners adopted a set of amendments to the Zoning Ordinance to address child care homes and centers. These

regulations included the definitions used by the State of North Carolina. Mrs. Creef explained that at the time of the amendments, child care homes were divided into several categories: small child care homes, large child care homes, small child care centers, medium child care cents, and large child care centers which were all based on the number of children. Since the adoption of the child care amendments by Dare County in 1990, the State has changed the way that they categorize the small child care homes and the small child care centers to where they don't recognize the designation of large child care home. Over 5 children the State considers a family center.

Mrs. Creef stated that it would be consistent with standards of Dare County if the text is amended. She further stated that the inclusion of the large child care home in the SED-1 district is a benefit to the community and would out weigh any concerns of this additional number of children that may be cared for in an individual home. She recommended moving forward with the amendment and that language be drafted so that large child care homes are still subject to review and approval by the Zoning Board as a small child care home is now.

Chairman Midgett asked if the Board will need to conduct a public hearing.

Mrs. Creef reminded Mr. Midgett that the Planning Board has the option of having a public hearing and the Board of Commissioners will have to have a public hearing. She stated the Ms. Fagley has submitted letters of recommendation from some of the folks that she knows and is in a hurry to try to get her business up and running. On behalf of Ms. Fagley, Mrs. Creef asked the Board to defer having a public hearing on this amendment due to the clear public benefit associated with child care.

Mrs. Fagley told the Board that she has three neighbors and she has spoken to two of them and they have expressed no problem with her proposal.

A motion was made by Joe Thompson, seconded by Beth Midgett to recommend approval of the text amendment as proposed.

Vote: Ayes – Unanimous

Farmstead Park on Roanoke Island – Conditional Use Permit

Dare County Planner Ryan Simons told the Board that Mr. Ray Meekins has submitted a site plan on behalf of Outer Banks Conservationists, Inc. for the construction of improvements for a public park to be located at the North End of Roanoke Island.

Mr. Simons stated that the park is essentially open space preservation with a historic home and some accessory structures, along with a proposed 960 square foot retail shop and parking lot.

Mr. Simons provided a draft Conditional Use Permit and recommended approval subject to the following:

1. An agreement to use Buzzy Lane as the primary access to the project.
2. Access be provided to the existing cemetery on the property.
3. The developer should provide information on the extent the Rock Drive depicted will be used if the parking lot off of Buzzy Lane is intended to be the primary access point to the park.
4. The drive aisle in the parking lot off of Buzzy Lane widened a few feet to provide better access.

John Wilson representing the site plan and Conditional Use Permit Application for Farmstead Park on Roanoke Island was present. Mr. Wilson told the Board that they acquired the two lots opposite one another on Buzzy Lane on the main highway so that they would have a street to come in on for the parking spaces for the visitors and so that the parking would not be located on the historic front pasture area of the historic site. He stated that the cemetery is actually on Etheridge Road. He explained that the Rock drive is a piece of property that was maintained with the home place when all the other property around it was sold to developers. All public access would be off of the historic property, off of Buzzy Lane so that the cars are not visible from the site.

Mr. Wilson stated that his deed actually addresses that they have the right to use Buzzy Lane and there are no restrictive covenants that apply to those lots.

A motion to recommend approval of the Conditional Use Permit for Farmstead Park on Roanoke Island was made by John Myers, seconded by Ricky Scarborough, Jr. subject to the conditions mentioned in staff comments.

Vote: Ayes – Unanimous

Maritime Woods Business Park – Roanoke Park – Conditional Use/Warehouse Park site plan review

Ryan Simons told the Board that Mr. Delucia of Albemarle Engineering is here on behalf of Maritime Woods Development submitted a site plan and Conditional Use Permit application to erect some offices and storage facilities on Roanoke Island.

Staff recommended approval subject to the following:

1. Install a visual buffer adjacent to the residential use.
2. Note #16 on the site plan makes mention of the lighting that will be used at 250 watts; staff finds that might be somewhat excessive for the type of facility proposed for construction. Note #16 also addresses the Town of Manteo instead of Dare County.
3. Restrictive covenants have been submitted that address uniform sign regulations, as was outdoor storage of equipment and materials and the fact that no hazardous material should be stored on site.
4. Deliveries are going to be made at a central loading dock. Staff recommends that those deliveries be made during regular business hours.

5. Section 22-31 of the Zoning Ordinance there is mention of a mandatory pre-application conference to be held between the Planning Board and the developer.

Mrs. Creef Donna stated that she has had a lot of meetings with the engineer on this project in particular. Not necessarily the site plan in its entirety that is in front of the Board tonight, but the one building that is currently under permit. She stated that they had a site plan approved and staff did a pretty extensive review on that and actually a lot of the stuff staff addressed then, has been reiterated. Mrs. Creef stated, that as far as staff is concerned they have met that requirement for a pre-application conference.

John Delucia from Albemarle & Associates told the Board that he has a rendering of what the park should look like. In response to Mr. Simons Mr. Delucia provided a letter. He told the Board that the proposed park is located near the airport at the end of Driftwood Road where the Cloth Barn is right now. He stated that one of issue that was not brought up in staff comments that he would like to make the Board aware of is that the water line ends at the Dare County Detention Center, and the developers are going to extend the water line up to the park. He stated he has had several discussions with Bob Oreskovich regarding this.

Mr. Delucia stated that this business park wants to be for retailers that need a place to store their merchandise, wholesalers that need a small office and a place to store their merchandise. He told the Board that there are six buildings proposed with a total of 39 units within the park. He pointed out that building #2 is currently under construction. Building #4 has a common area pavilion to use for condominium association meetings, parties, park members to use as a common area. He stated the park not set up to have large trucks deliver in the facility. While the roads are set up that a semi truck can traverse through the site if it has to; fire trucks absolutely can get through the site if they need to; building #1 will have a central loading dock for any of the semi truck traffic that comes in and out of the facility with forklifts and smaller deliveries that will take it to the individual units. There will be 84,000 square feet of buildings in this facility when it is finished.

Mr. Delucia stated that there are no drainage facilities. He stated they have designed the facility to actually retain over 5 inches of stormwater onsite. State stormwater permits have been submitted. There are no wetlands on the site.

Mr. Delucia requested that the hours of operation listed in the draft CUP be changed to 7 AM to 6 PM.

Mr. Delucia addressed comments on the lights. He stated 250 watts is probably a little bit excessive, and they have just recently received the type of cut off fixture that will be utilized (copy attached to comments).

Mr. Delucia told the Board that the erosion sedimentation control plan has been submitted, stormwater plan has been submitted, and the health department septic systems are all locally approved and permitted.

A motion to recommend approval was made by John Finelli subject to the conditions listed in the draft permit and the changes made by Mrs. Creef, seconded by Joe Thompson.

Vote: Ayes – Unanimous

OTHER BUSINESS

There being no further business before the Dare County Planning Board a motion to adjourn was made by Joe Thompson, seconded by Beth Midgett.

Vote: Ayes – Unanimous

This meeting adjourned at approximately 9:30 PM.

Respectfully Submitted,

Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: March 14, 2005

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