

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, May 9, 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 Finelli
	John Myers	Robert Lewis
	Ricky Scarborough, Jr.	Beth Midgett

MEMBERS ABSENT Joe Thompson

APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the April 11, 2005 meeting, a motion to dispense with reading them and to approve them as submitted was made by Robert Lewis seconded by Ricky Scarborough, Jr.

Vote: Ayes – Unanimous

OLD BUSINESS

Village at Salt Creek – Frisco – Preliminary

Planner, Ryan Simons presented staff comments. He stated that Board reviewed two sketch plan concepts (concept I, a group housing development and Concept II, a traditional 8 lot subdivision) for this proposed division last month. Mr. Simon stated that after some recommendations by the Planning Board the developer has decided to move forward with concept II.

Mr. Simon stated that the one design restraint indicated on the plat is a guy wire that extends from the DOT right-of-way into lot 2 which requires that lot one have access from highway 12 instead of from Salt Creek.

Mr. Simon recommended approval, but suggested that the developer consider establishing a conservation easement at the rear of the property. He stated that most of that property is wetlands and a conservation easement would preclude any future land disturbing activities.

Eddie Valdivieso of Quible and Associates, representing the developer Bobby Willis was present.

A motion was made by John Myers to excuse Beth Midgett from the review of this division due to a possible conflict of interest. This motion was seconded by Robert Lewis.

Vote: Ayes – Unanimous

A motion to recommend preliminary plat approval was made by John Myers, seconded by John Finelli subject to the establishment of a conservation easement at the rear of the property to preclude future land disturbing activities. This easement shall be indicated on the plat and language addressing such easement shall be included in the restrictive covenants as recommended by staff.

Vote: Ayes – Unanimous

A motion to bring Beth Midgett back on the board for the remainder of the meeting was made by John Myers; seconded by Ricky Scarborough.

Vote: Ayes – Unanimous

NEW BUSINESS

Crooked Ridge Subdivision – Buxton – Sketch Plan

Senior Planner, Donna Creef presented staff comments. She told the Board that Mr. Brant Wise, property owner/surveyor of record on this proposed subdivision is present.

Mrs. Creef told the Board that Mr. Wise originally submitted this plat as a 3-lot exemption to the Planning Director for approval. She stated that due to the tract being over the two acre threshold for exemptions it has been re-submitted for review by the Planning Board as a sketch plan with 4 lots.

Mrs. Creef explained that when Mr. Wise received the determination that it could not be handled as an exemption he created the fourth lot. She noted that the cover letter submitted with the preliminary plat is confusing because it was written in recognition of the exemption submission for the 3-lot division.

Mrs. Creef told the Board that the proposed division is located in the Buxton Woods and is zoned SED-1. Access to the site is proposed from an existing paved road, Crooked Ridge Trail. Access to the proposed lots is from Crooked Ridge Trail is proposed as a 30' wide easement with 14' of gravel. To aid the Board's discussion, Mrs. Creef provided a copy of a memorandum from former County Attorney Norma Mills which addresses how the planning board can address private roads and the determination that they have to make that the private road is acceptable and once they make that deter-

mination, if they are inclined to make a determination, what level of improvements are acceptable.

Mrs. Creef noted that this is a sketch plan so detailed information about the storm water management is not necessary at this time. She told the Board that the developer proposes to connect to the Dare County central water supply and use on-site septic systems for wastewater disposal.

Mrs. Creef stated the Board will want to discuss the configuration of the four lots and the fact that the road, the ditch, and the wetland area runs through the middle of the proposed four lots.

Mrs. Creef expressed concern regarding the building setback lines. She stated that she spoke with the County Attorney, Mr. Bobby Outten and he agreed with her interpretation of the building setback lines and the front yard setback and how the road interplays with the determination of what the front yard setback is. She stated the sketch plan depicts a 50' setback along the southern boundaries of the 4 proposed lots which is not consistent with the Zoning Ordinance since the building setback lines are established from the right-of-way location and not adjoining property lines. She stated staff cannot endorse this configuration unless it can be determined that the setbacks established in the SED-1 zoning district can be met using the right-of-way as the building setback line and not the adjoining property line as depicted on the plat. She stated she discussed this matter with the County Attorney, Mr. Bobby Outten, and he is in agreement with her interpretation of the building setback lines and the front yard setbacks.

Mrs. Creef informed the Board that Mrs. Karen Vernesoni, an adjoining property owner, submitted comments contesting the sketch plan. Mrs. Creef included a copy of Mrs. Vernesoni's comments with her staff comments for the Board's review. She also provide Mr. Wise with a copy of the same.

Mrs. Creef noted that it is depicted on the plat that there is an area of contention. She stated she talked to the County Attorney today about how the county reviews subdivisions that involve property disputes and was advised that in some instances if the dispute was of such a nature that the area that was in dispute could be taken out and not affect the subdivision then it would simply be a civil matter, but if the configuration of the disputed area was in a fashion that impacted the subdivision then clearly we would have an interest in how it was settled. She further stated that Mr. Outten stated that the fact that the area of dispute is where the road is and if the county approved this four lot subdivision and Mrs. Vernesoni disputed that, took it to court, and the judge ruled in her favor and that land area that was in dispute went to Mrs. Vernesoni, we would then have a subdivision plat that the county approved that doesn't have an access road. Because of the nature of the area of contention Mr. Outten said that it was something that the county would clearly have to have addressed by a title certification or a demonstration of clear

title and that proceeding with comments tonight on the sketch plan was fine, but that when we got to the preliminary plat stage a clear title to the property would be required.

County Engineer Steve Shriver provided preliminary comments regarding this proposed division. He identified the following issues needing to be addressed prior to the submission of a preliminary plat:

1. Since it appears that more than one acre of land disturbing activity is proposed, a State Erosion and Sedimentation Permit will be required along with a storm water management permit.
2. The existing ditch that runs adjacent to the proposed road is a portion of a major drainage canal that extends from Frisco to Buxton, "Peter's Ditch". This ditch was actually relocated south from 500' north up on the Quidley property. Mr. Shriver state that he has been informed that there are some regulatory/wetland issues concerning this ditch relocation.
3. There were two culverts installed at the time of the ditch relocation. Mr. Shriver suggested that these culverts be professionally evaluated for the proper size, and to make sure they are sufficient for the flows. Details on how the ends of each pipe will be protected should be included on the site plan along with forms of scouring protection at the end of each of the culverts.
4. Mr. Shriver recommended some sort of geotechnical testing be done to determine the adequacy of the fill material and right compactions.
5. Mr. Shriver suggested the developer include some details on stabilization of the sides of the existing ditch to help prevent erosion if there are ever high flows.
6. A wetland delineation survey should be submitted for review.

Mr. Wise told the Board that he does have title insurance for a clear 25' and was actually deed through Dr. Blair 50' plus the two acres where they built their house.

Chairman Midgett told Mr. Wise that he is going to have a problem with the setbacks. He informed him that the setbacks will have to come from the road.

Mr. Wise commented that the Ordinance reads the setback is from a right-of-way. He asked are the setbacks off of a right-of-way. He stated that the access is a dedicated easement and there is a difference.

Mr. Wise stated that he actually owns 25' of the Vernesoni undisputed area. He stated that Vernesoni survey attached to her letter shows the property line extended down into the center line of what was Crooked Ridge Trail as it was originally laid out for Hatteras Pines West. Mr. Wise stated that he has clear title to 25' up to Michael Quidley's and from Michael Quidley's it flares out from 30' to about 60'+ up to around lot 70.

Chairman Midgett asked Mr. Wise why he thinks the division would be approved with a gravel road.

Mr. Wise stated because he has prepared surveys that have been approved in the past with a gravel road.

Mrs. Creef stated that she doesn't recall the County approving any subdivisions with gravel roads, but would research the issue.

Chairman Midgett informed Mr. Wise that he doesn't see the proposed subdivision being approved as proposed, and suggested that he come back with an alternative proposal.

Mr. Wise commented that the he reads the language to encourage gravel or other surfaces and discourages paved road.

Mrs. Creef stated that the SED encourages the interconnection of roads.

Chairman Midgett stated that his first thought when he looked at the plat was to move the road to the north side of the property and leave the ditch where it is.

Mr. Wise stated he would rather relocate the ditch back to where it used to be.

Chairman Midgett stated that the ditch doesn't create the problem; the road does.

Chairman Midgett stated that there are many technical issues to be resolved with this plan and suggested that Mr. Wise meet with staff and come back with a different layout. He further stated that he can see two lots with paved improvements.

Board reviewed item as a sketch plan; no action taken.

There being no further business before the Dare County Planning Board a motion to adjourn was made by John Myers, seconded by Ricky Scarborough.

Vote: Ayes – Unanimous

Respectfully Submitted,

Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: June 13, 2005

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