

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, December 12, 2005. This meeting was held in the meeting room of the Dare County Administrative Annex located at 204 Ananias Dare Street, Manteo, North Carolina.

CALL TO ORDER 6:00 PM

MEMBERS PRESENT	Elmer R. Midgett, Jr., Chairman	John Finelli
	Cathy Morris	Joe Thompson
	John Myers	Beth Midgett

MEMBERS ABSENT Ricky Scarborough, Jr.

APPROVAL OF MINUTES

There being no additions or deletions to be made a motion was made by Cathy Morris, seconded by Joe Thompson to dispense with reading the minutes of the September 12, 2005, October 10, 2005 and November 14, 2005 and to approve them as prepared.

Vote: Ayes – Unanimous

OLD BUSINESS

Wanchese Zoning Standards – Final Draft/Recommendation to Board of Commissioners

Senior Planner Donna Creef presented staff comments. She told the Board this is the final draft of the Wanchese zoning regulations. Included in the final draft is a copy of the map that was included in the second packet that reflects the changes to the Sand Islands that were discussed at the November meeting. She stated she also sent out a cover memo indicating where some language was excluded in several of the districts regarding the maximum square footage of the building size. Also, Mrs. Creef told the Board about a conversation with the County Attorney in reference to the list of prohibited uses that the committee had included in their original draft and he said that it is not necessarily the right thing to do to call out specific uses like that and that he would prefer that we use that phrase in there “any use not permitted herein shall be deemed prohibited and that language will be included in each district in the permitted use section in the lead in paragraph and the conditional use section.

Mrs. Creef requested the Planning Board make a recommendation on the Wanchese Zoning regulations.

Upon the conclusion of a lengthy discussion, a motion to recommend approval of the final draft of the Wanchese Zoning regulations to the Dare County Board of Commissioners was made by John Myers, seconded John Finelli.

Vote: Ayes – Unanimous

Colington Cut Subdivision – Colington – Extension Request

Joe Analauf from Quible and Associates was present to represent the Colington Cut, LLC.

Senior Planner Donna presented staff comments. She told the Board that Colington Cut Subdivision was granted preliminary plat approval in December 2004 by the Dare County Board of Commissioners subject to three conditions as follows:

1. Staging plan for equipment be developed and submitted to staff prior to construction activities commence.
2. A left turn lane from Colington Road for entrance into the division to be installed.
3. Any modifications to the waterline improvements would be at the expense of the developers.

Joe Analauf of Quible and Associates told the Board that they have the permit from the Corps and are seeking a permit from NCDOT to install the turn lane. He stated due to wetlands and the elevation change from the existing road within the right-of-way it is complicated, and they are working closely with DOT and according to Mr. Goodrich NCDOT has indicated that they will issue the permit.

A motion to grant a 12-month extension was made by Joe Thompson, seconded by Cathy Morris.

Vote: Ayes – Unanimous

Cedar Hammock Resort Travel Trailer Park – Waves – Site Plan

Ryan Simons presented staff comments as follows:

1. Travel Trailer Park Ordinance requires that a buffer strip be installed along the perimeter of the property. Due to the unusually narrow nature of the lot, and in order to accommodate the required 80' turn circle, the developer has substituted portions of the vegetative buffer with opaque fencing along the sides of the turn circle. He stated that a variance granted by the Zoning Board of Adjustment may be required.
2. Outstanding regulatory issues need to be addressed. Notification from DENR, the Corps of Engineers and the Division of Water Quality has been received concerning some violations and some suggestions to how they can best remedy some situations that were on the property and for the most part they gave a conditional thumbs up if you will that certain conditions are going to have to be met upon any approval of construction of any improvements.

Rick House of House Engineering was present to represent the developer Mr. Asa Gray. He told the Board that he prepared the site plan that is being reviewed. He presented a timeline of what actually happened to get him involved with the project.

The Board discussed the site plan and what is to be considered as common area and concurred to consider this item a sketch plan to allow the developer to request a variance for the buffer.

No action taken; item considered a sketch plan

Pirates Way – Frisco – Preliminary Plat

Planner, Ryan Simons presented staff comments. He told the Board that this is a preliminary plat for Pirates Way, a four-lot subdivision in Frisco. The major issue with this subdivision identified at a previous review was the ingress from Highway 12. As indicated on the plan, the developer has acquired an additional 10' on the ingress portion of the proposed easement, widening it to 30'. Mr. Simons noted that the 30' CAMA buffer has also been included on the plat.

Mr. Simons noted that the setbacks for structural improvements will be based on the northern edge of the road improvements and should be included on a revised preliminary plat. He suggested that road improvements be of an impervious nature. He also requested that the area of the basin which was filled be noted on the plat and geotechnical information associated with this fill activity be indicated on the plat as well.

Joe Analau of Quible and Associates, P.C. was present to represent this preliminary plat.

A motion to recommend preliminary plat approval to the Dare County Board of Commissioners was made by John Myers, seconded by Beth Midgett.

Vote: Ayes – Unanimous

NEW BUSINESS

Skyco Development Subdivision – NC 345 (Skyco) – Sketch Plan

Senior Planner Donna Creef presented staff comments. She told the Board this is a sketch plan and a rezoning request that has been combined into one request. They submitted a cover letter and the staff comments are based on the combined request. Mrs. Creef told the Board that the subdivision plat is a sketch plan, and there will be no formal action on the subdivision aspect of the submission. She identified several items to be discussed by the Board with the developer as follows:

1. A portion of the property is zoned R-1 and a portion of it is unzoned. The applicants are requesting that the R-1 zoning be extended to the entire area of the property. She stated that it is adjacent to the R-1 areas.
2. In order for the proposed subdivision to take advantage of the decreased minimum lot size of 15,000 square feet central water will have to be made available to this proposed subdivision. Verification from the Dare County Water department that there is ample supply and that they are aware of this request will be needed prior to proceeding with the preliminary plat. Mrs. Creef stated that she has been in contact with Mr. Flatt, Director of the Water department and he is aware of this. She stated that Mr. Flatt did indicate that the Water Department has hired an independent firm to study the water needs of Roanoke Island and are expecting that plan in immediate future.

3. Due to the amount of the land disturbance, a State stormwater management permit will be needed. According to the terms of the Subdivision Ordinance, a copy of the State approved stormwater management permit must be submitted with the preliminary plat.
4. The rezoning request will be guided by the 2003 Land Use Plan and Land Classification map. This tract is classified "Community Neighborhood" and the language in the Land Use Plan is specific to the application to the "Skyco" area and that urban-style utilities such as central water are not compatible with this classification. Assuming that they can obtain water from the Dare County central water supply, an amendment to the Land Classification Map to provide a classification consistent with urban style utilities will be necessary. She noted that they may be consistent with the policies; there is that internal inconsistency with the Land Use Plan. She stated she would be remiss if she did not point that out.

In summary, Mrs. Creef stated that this request must resolve several issues prior to being considered as a preliminary plat. In order for the approval of this development a number of issues with policy implications will have to be resolved.

Lee Tugwell addressed the Board. He stated that Skyco Development consists of Glen Futrell, Johnnie Robbins and himself. He told the Board that they have about 200 acres in the Skyco area of which a total is about 35 acres of uplands. He stated that probably one of the reasons staff didn't realize that there is actually three parcels involve and it is really not clear from the sketch plan. He stated that there is about 25 acres of this property proposed for this development. Five acres of that 25 is already zoned R-1. He stated that approximately 35 acres of contiguous land is zoned R-1, and Skyco Development, LLC felt for contiguous holistic zoning we would do better to have all of the property in this same zoning classification which those things are consistent with the Land Use Plan.

Mr. Tugwell stated that by definition R-1 is low density and the Land Use Plan identifies that area for low density single-family residences. He stated that the developers did try to design a subdivision that would be in keeping and in spirit with the land use plan and would fit in with the community. There is a lot of talk/speculation about what we want to do. We feel like that our subdivision satisfies most of the intent if not all of the intent of the land use plan classifications. The Land Use Plan is inconsistent within itself. There is clear language in the Land Use Plan that states that central water is to be extended to all of Dare County, all unincorporated areas of Dare County. There are inconsistencies within the Land Use Plan as well. We feel like the Land Use Plan supports what we want to do. We understand from a public safety and health standpoint that it is more advantageous for us have central water than to bore 50 individual holes in the ground with the possibility of introducing contaminants into that water source. I think the studies may show that it is actually advantageous from the water distribution standpoint for us to have central water.

Chairman as with all rezoning request before we do anything we always schedule a Public Hearing.

Board concurred to conduct a Public Hearing at the January 9, 2005 meeting. A motion to conduct a Public hearing on the rezoning request was made by Joe Thompson, seconded by John Myers.

Vote: Ayes – Unanimous

KAMP, Inc. – Hatteras - Conditional Use Permit

Jay Wheless of the law firm Wheless and Wheless, PLLC was present to represent the applicant KAMP, Inc. Also present was Corporate Owner/Officer, Wayne Midgett.

Donna Creef presented staff comments. She told the Board that this is conditional use permit for a 12-slip boat dock on property in Hatteras Village that is zoned R2-AH. She stated she prepared a draft CUP for the Board's review and consideration.

Mrs. Creef provided the Board with a letter from one of the adjoining property owners expressing concern regarding the location of the dumpster depicted on the site plan and fish scraps being in the dumpster creating problems for the neighborhood. They would just as soon the dumpster not be there.

Mrs. Creef stated that in an effort to avoid unsightly problems with the unauthorized use of a dumpster, staff is comfortable with there not being a dumpster there.

Chairman Midgett stated for the time being let's just leave out the dumpster; can address it later if necessary.

Mrs. Creef provided a draft CUP outlining several conditions which was included in the Board's packet for review and consideration. She noted that she included language prohibiting commercial activities on the site. She also noted that she has suggested to the developer that have some sort of method to control access to the site so that people don't mistake the site as a public boat dock or estuarine access area. She also included a condition on bulk storage of fuel.

Jay Wheless addressed the Board he told the Board that there will be no commercial activity permitted on the site. He stated that there will not be any fish cleaning tables on the site and fish cleaning will be prohibited. He stated that there will be an Association there to manage and enforce the condominium rules and regulations.

Regarding the controlled access to the site, Mr. Wheless stated that a gate a gate is probably impractical and informed the Board of their proposal to have some sort of sign indicating private access, no boat ramp, something like that which may achieve that.

The Board and staff concurred that if at a later date it is determined that a trash receptacle is needed then the owner may place them on site without coming back to the board and coordinating that with staff.

After discussing the application a motion was made by John Myers, seconded by Joe Thompson to recommend approval the Conditional Use Permit as requested by KAMP, Inc. for a 12-slip boat dock in Hatteras village.

Vote: Ayes – Unanimous

Hatteras Hideaway – Travel Trailer Park – Sketch Plan

Attorney Jay Wheless informed the Board that Mr. Midgett who is Hatteras Hideaway Travel Trailer Park #3 has hired the assistance of a professional who was unable to be here tonight and would like to have this item postponed until next month.

The Board concurred to delay this item until next month.

Julian H. Austin, III – 4 lot division – Frisco – Sketch Plan

John Head present to represent himself in the interest of this and the purchase of the property from Julian Austin.

Planner Ryan Simons presented staff comments. He told the Board that this is a sketch plan for a proposed 4 lot division in Frisco.

Mr. Simons identified the following items for the Board's discussion:

1. The water supply source should be specified and indicated on the plat. He noted that lot 2 is indicated to be just over 16,000 square feet which is under the minimum 20,000 square foot minimum lot size requirement.
2. A note should be included on the plat to permit access to lot 4 via the "pole" portion of lot 3.
3. The proposed bridge accessing the rear highland portions of lot 3 and 4 should be designed and engineered according to NCDOT standards and meet the load requirements required for emergency vehicle access. These specifications should be submitted to staff for review.
4. A detailed driveway and bridge sketch should also be included on the plat.
5. All State and Federal regulatory permits should be submitted at the time the preliminary plat is submitted. This will include all applicable USACE and CAMA permits.

Mr. Head told the Board that this project has been on-going with Army Corps delineation and CAMA onsite on numerous occasions. He stated they started just after Hurricane Isabel to get this division done, but due to the regulations of getting every thing delineated and also the Health

Department requirements where they would like to see the septic placed extended that time pretty drastically.

The Board discussed the following issues:

1. The location of structures/infrastructure/improvements in the fill area and notification of the fill area.
2. Language is included in the covenants prohibiting the further division of lots 3 & 4.
3. Contiguous land
4. Maintenance of the proposed bridge.
5. Setback restrictions on structural improvements.

No action taken on a sketch plan review.

Elva J. Proffitt Division – Proposed division of lot 3 – Buxton – Preliminary Plat Review

Owner/developer, Christopher J. McCall was present.

Senior Planner Donna Creef presented staff comments. She told the Board that this two lot division has been submitted to the Board for review because the square footage of the property in its entirety is greater than the exemption standards in the Dare County Subdivision Ordinance and could not be handled administratively. She noted that photos of the property were attached to her written comments included in the Board packet to depict the 16-foot easement area that comes off Gaskins Lane that wraps around and provides access to lot 3B.

Mrs. Creef stated that the property will be served by central water and individual on-site septic tank/drainfield systems. There is less than an acre of land disturbance therefore no stormwater information will be needed, but a lot coverage table will need to be added to a revised preliminary plat.

Mrs. Creef noted that lot 3A contains an easement area for the wastewater system for lot 3B. She stated that comments from the Health Department have been submitted and the surveyor has submitted a proposed layout of the two houses.

Mrs. Creef pointed out that the building envelope on lot 3B is somewhat restricted with the application of the 30-foot CAMA buffer on the canal on both sides and then you have the 75-foot CAMA/AEC area. A typical footprint for a structure and driveway should be included on a revised preliminary plat.

John Finelli commented that he doesn't think it is the appropriate thing to do to put that drainfield on another lot.

A motion to recommend approval of the preliminary plat was made by Joe Thompson, seconded by Beth Midgett.

Vote: Ayes – E. Midgett, Myers, Morris, Thompson & B. Midgett
Nays – Finelli

Subdivision for Sunset Partners (Parcel 2, Wilton Gamiel Subdivision – Colington – Sketch Plan

John Delucia of Albemarle Engineering was present to represent this sketch plan. Also present was the property owner Mr. Ron Forlano.

Senior Planner Donna Creef presented staff comments. She told the Board that the proposed 11-lot division is a tract of land that is 14 acres in size located in the R-1 zoning district of Colington. She stated that the smallest of the lots being 28,156 square feet. The developers are proposing to install a new road. Access to the property is from Schoolhouse Lane which is off of Colington Road and they have acquired additional property to widen it to 45’.

Mrs. Creef stated that the sketch plan does not indicate the amount of land disturbance on the property. Depending on the amount of land disturbance the developer may have to apply for a stormwater management permit prior to the submission of a preliminary plat.

Mrs. Creef offered the following comments.

1. All of the lots contain a minimum of 15,000 square feet of non-wetland area, and the wetland delineation has been completed, and verification by the Corps is pending.
2. Some filling of wetlands is necessary for the installation of the road improvements.
3. The dimensions of lot 11 are not indicated on the sketch plan. Staff has advised the project engineer of the policy on flag lots.
4. There is an existing residence on lot 7 and the overlay of the lot lines has been designed to conform to the R-1 setbacks.
5. The developer has been encouraged to review Section 22.58.1 of the Dare County Zoning Ordinance regarding the alteration of any dunes, and staff suggested that those standards be included or referenced in their covenants. Staff also suggested some restrictions on the land clearing be included as well to reduce the amount of vegetation removal.

Sketch plan; no action taken by the Board.

Sunset Village Tract 2A, Phase 3 Subdivision – Frisco – Preliminary Plat

A motion to excuse Joe Thompson from the review of this division was made by John Myers, seconded by Beth Midgett.

Vote: Ayes – Unanimous

Joe Anlauf of Quible and Associates was present to represent this preliminary plat. Also present was the owner/developer Joseph Thompson.

Senior Planner Donna Creef presented the following comments:

1. This preliminary plat is the subdivision of an existing tract that was a portion of Sunset Village, lot 2A that was done years ago. The size of the entire tract exceeds the exemption standards for administrative approval.

2. The proposed two lots will have frontage on the existing private road, Land's End Way that was recorded as part of the original subdivision. No additional road improvements will be necessary.
3. The driveway access for lot 19 is a flag lot and is only 12 feet wide where it touches on Land's End Way. She stated this access will need to conform to the standards of Section 22-58.2 of the Dare County Zoning Ordinance which will be enforced at the time a permit is secured.
4. The plat depicts Land's End extending past lot 18 into the property owned by Mr. Paul Warnell. Mrs. Creef suggested the turn around of service vehicles be discussed.
5. The covenants and road maintenance agreement previously recorded for Sunset Village will apply to these new lots.

Joe Thompson told the Board that Public Works Director Edward Lee Mann informed him that the sanitation trucks are presently going past lot 18 and are picking up the Darth Vader cans at the Warnell site. He stated that Mr. Mann stated that it doesn't seem to be a problem and would provide something in writing if necessary.

The Board discussed the widening of the elongated portion of lot 19.

A motion was made by John Myers, seconded by Cathy Morris to recommend approval of the preliminary plat for Sunset Village, Tract 2A, Phase 3, Subdivision subject to the elongated portion of lot 19 being increased to a width of 16 feet.

Vote: Ayes – Unanimous

A motion to bring Joe Thompson back on the Board for the remainder of the meeting was made by John Myers, seconded by Beth Midgett.

Vote: Ayes – Unanimous

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

Vote: Ayes – Unanimous

Respectfully Submitted,

Jacqueline J. Tillett
Senior Administrative Support Specialist

Approved: January 9, 2006

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