

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, February 13, 2006. This meeting was held in the meeting room of the Dare County Administrative Annex, 204 Ananias Dare Street, Manteo, NC 27954

CALL TO ORDER 7:00 pm

MEMBERS PRESENT

Elmer R. Midgett, Jr., Chairman	John Myers
John Finelli	Ricky Scarborough, Jr.
Joe Thompson	
Cathy Morris (arrived at approximately 7:12 PM)	

MEMBERS ABSENT

Beth Midgett

APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the January 9, 2006 Planning Board meeting, a motion to dispense with reading them and to approve them as submitted was made by Joe Thompson, seconded by John Myers.

Vote: Ayes – Unanimous

PUBLIC HEARING

Donna Creef presented staff comments. She stated last month the Board instructed staff to schedule a public hearing on three proposed amendments to the MP-1 zoning district which applies to the residential sections of the Martin's Point Subdivision. She stated that these text amendments were requested by the Martin's Point Homeowners Association. She explained the three amendments to Section 22-17 as follows:

1. An increase in the length of piers as it applies to the Currituck Sound. Currently the limit is 100 feet. The Homeowners association is requesting that the maximum length be extended to 125 feet.
2. The second amendment would add a section to the other regulations that are in the MP-1 district which prohibits the keeping of animals, livestock, poultry or fowl shall not be raised bred or kept on any lot, except for dogs, cats, or other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes. That language is included in their covenants. The Association is requesting the zoning district be expanded to include that same language.

3. The location of accessory use buildings or structures in relation to the principle use structure.

Mrs. Creef told the Board the County Attorney has advised that there are new regulations that came into effect January 1, 2006 that requires Planning Board's to make a "finding" that the amendment proposed is consistent with the County's Land Use Plan.

Mrs. Creef submitted a draft finding based on the format instructed by Mr. Outten.

Public comments in support of this amendment were received from the following:

1. Ken Swankey, Vice President on the Board of Martin's Point.
2. Dave Hoar, resident
3. Ron Bersack, resident of Dare County since 1989, Martin's Point resident since 1993. Mr. Bersack also expressed concern regarding boating safety and stated that the proposed amendments would help.
4. Manny Maderios, 20 year resident

A motion was made by Joe Thompson, seconded by Cathy Morris to recommend approval of the findings as drafted by staff.

Vote: Ayes – Unanimous

OLD BUSINESS

Skyco Development, LLC – Skyco – Zoning Amendment Request

Senior Planner, Donna Creef, told the Board that last month the Board conducted a public hearing on the request from Skyco Development, LLC to extend the R-1 zoning designation to a portion of their property in the Skyco community. She noted that comments regarding the location of the boundaries of the tax district in relation to the zoning district boundaries were rendered at the public hearing. Staff was instructed by the Planning Board to consult with the County Attorney on whether there was any correlation or any bearing on the land use recommendations of the Board and the tax districts. Mrs. Creef told the Board that her conversations with Mr. Outten and as indicated in an e-mail from him indicate that there is no correlation, and that it has no bearing on the decision that relate to land use, zoning, and subdivision. She stated that Mr. Outten advised that if the applicants wish to pursue a change in the tax district, the appropriate agency to hear that request would be Board of equalization and review. She noted that the Board will need to adopt a "finding" on this rezoning request and the basis of a "finding" will need to be whether or not it is consistent with the Dare County Land Use Plan.

Mrs. Creef stated that the subject property is located in the Community Neighborhood land classification district in the Land Use Plan, which states "the purpose of this sub-

classification is to identify an area where the predominant land use is low-density residential dwellings which is consistent with the R-1. The Land Use Plan language continues with a discussion of other land uses that are incompatible such as sand mining.

She noted that Policy 55 of the Land Use Plan specifically states that detached residential structures are the preferred land use. She further noted that it is staff's opinion that the designation of R-1 is consistent with the land classification and the policies of the Land Use Plan.

Mrs. Creef stated that it is important for the Board to note there is a Public Hearing on the draft Wanchese zoning map to be conducted by the Dare County Board of Commissioners scheduled for March 20, 2006. She stated it is staff's recommendation that the Planning Board recommend that the petitioners attend that Public Hearing to explain their request and seek the requested change at that time.

Mr. Tugwell was present to represent the Skyco, LLC Development. He told the Board that if it would please the Wanchese delegation, they would be happy to petition the tax department to have the tax line drawn to include all of their property in the Wanchese tax district.

Joe Thompson, seconded by John Myers made a motion to recommend approval of the request for the R-1 zoning designation and that the request for R-1 designation is consistent with the Dare County Land Use Plan and its preferred single family dwelling development. The parcel in question be amended to reflect the R-1 zoning district and that the developers attend the hearing for the Wanchese zoning map and present their request at that time.

Discussion – Chairman Midgett commented that if the Board is going to vote for this he would like to not extend that R-1 zoning line to the property line, but bring it north some distance to where the next property owner can't come in and say R-1 abuts me so how about picking us up.

Finding that it is consistent with the Dare County Land Use Plan and recommending that the property be zoned R-1 for the upland portions as depicted and referenced on the wetland map on filed with the zoning application and that the other portions of the property remain unzoned until such time that the Wanchese zoning map is adopted. Motion, Thompson, seconded Cathy Morris.

Vote: Ayes – 5 (Midgett, Myers, Finelli Morris & Thompson)
Noes – 1 (Scarborough)

Christopher J. McCall – Division of Lot 3 Elva Proffitt Division – Buxton – Final Plat

Mr. McCall, the property owner, was present represent this final plat.

Senior Planner Donna Creef presented staff comments. She told the Board this is a final plat for the Elva J. Profitt Subdivision. She stated that the Dare County Board of Commissioners granted preliminary plat approval on January 17, 2006. No additional road improvements will be installed.

Staff recommended final plat approval.

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

Vote: Ayes - Unanimous

NEW BUSINESS

Jack & Mary Gray – Buxton – Conditional Use Permit

Ms. Jackie Gray was present to represent this application

Senior Planner Donna Creef presented staff comments. She told the Board that this a conditional use permit application for a group housing development. She told the Board that Ms. Gray's parents, Jack and Mary Gray submitted this CUP application seeking authorization to place a second residence on their property in Buxton to allow an elderly family member to move onto the property. The site is zoned R-2A which permits group housing developments.

Mrs. Creef stated that the existing principal use structure has been on the property since 1910, pre-dates the zoning regulations and is considered a pre-existing, non-conforming structure.

Mrs. Creef stated that they have the 20 foot separation between the two structures and can maintain the required 25 foot setback from the side, rear and front property lines. The property meets the 20,000 square foot minimum size established for group housing. The driveway that will be used for the new structure is the existing driveway; therefore no additional permit will be required from NCDOT.

Mrs. Creef noted that based on her calculations they should not have any problem meeting the 30% lot coverage. She stated she has included a condition in the draft CUP, and as is the case with any construction project, that an as built survey be submitted at the time of the certificate of occupancy is requested demonstrating that they are in compliance with the 30% lot coverage and that the parking is all out there and the setbacks are as they should be.

A draft Conditional Use Permit was submitted for the Board's review and consideration.

A motion was made by Joe Thompson to recommend approval, seconded by Cathy Morris subject to the conditions identified in the Draft CUP prepared by staff.

Vote: Ayes – Unanimous

The Refuge on Roanoke Island – Wanchese – Sketch Plan

Ryan Simons presented staff comments. He told the Board this is a sketch plan for a travel trailer park on approximately 123 acres in Wanchese consisting of 56 travel trailer sites. He noted that the a typical lot size should be depicted on the site plan and a vicinity map of exactly this portion of the property sits in relation to the rest of the property. Mr. Simons pointed out that Division of Coastal Management has verified that the pond at the site does not fall under the jurisdiction of the CAMA, and the County Engineer has indicated that this development will require a sedimentation and erosion control permit.

Mr. Malcolm Fearing, owner/developer was present.

The Board discussed the following:

1. Easement to the property
2. Road improvements
3. Wastewater disposal
4. Lighting

No action taken; item reviewed as a sketch plan.

W. Randy Hodges d/b/a Manteo Blacksmith Shop – Roanoke Island – Conditional Use Permit

Ryan Simons presented staff comments. He told the Board that Mr. Hodges is requesting a conditional use permit to operate a hand-forged iron work and metal sculpture studio home occupation in his home at 215 Dare Avenue. He stated that all merchandise is going to be produced on the property. There will not be any large items or a fabrication shop, but rather small art pieces.

Mr. Simon stated that no structural improvements are proposed for the property and verification from the Fire Marshal has been secured that this operation is not going to pose a significant fire hazard.

Mr. Simons provided the Board with photo's of the site for the proposed home occupation along with a draft CUP for the Board's review and consideration.

Mr. Hodges was present. He told the Board that he has been doing blacksmith work in Manteo for the last 7 years at Magnolia market in downtown Manteo; primarily artwork and ornamental iron work. He explained that the conditions are changing in terms of commercial activity in Manteo and his business work is matured to the point where he wants to give up his space downtown and be able to work at home. He stated he intends

to sell his work to galleries, and possibly keep some of his former retail sales going by renting space in the 400 Budleigh Street Antique Mall. He stated it is not his intent to sell out of his home.

Board member Ricky Scarborough informed the Board that he has received some complaints about Mr. Hodges working at his home.

Mr. William Dough, property owner adjoining Mr. Hodges told the Board that doesn't want an iron-forge next to his property with the noise and coal fumes. He stated he owns the property next to him which is a vacant lot.

Cathy Morris commented that she grew up in West Virginia with coal fire heat and didn't have fumes from heating with coal.

Chairman Midgett stated that he has seen the operation in downtown Manteo and it is something that you hardly notice. He stated that he doesn't think the ting, ting of a hammer would be anymore objectionable than the roar of an automobile, tractor or crab shredders running or anything of that nature.

Board member John Finelli stated that he has seen the operation downtown and if his neighbor were doing that as a hobby it wouldn't bother him, but in a situation like this when a neighbor has expressed a complaint about noise, he has to go with the neighbor.

Ricky Scarborough, Jr. concurred with Mr. Finelli.

Joe Thompson stated he does not have a problem with the application. He stated he would think that cutting back on the hours of operation would be applicable. He commented that doesn't have a problem with the application except and suggested the hours of operation be shortened.

A motion was made by Joe Thompson to recommend approval to the conditional use permit as drafted by staff with limited hours of operation being 10 AM to 6 PM, Monday-Saturday and to comply with conditions outlined in the CUP as drafted by staff. This motion was seconded by Cathy Morris.

Vote: Ayes (Midgett, Thompson, Morris, & Myers)
No – (Scarborough & Finelli)

The vote carries.

Salvo Marina Subdivision – Salvo – Preliminary Plat

John Norris of Coastal Engineering was present to represent H.I. Enterprises. Also present was Charles Evans, Attorney representing the applicant and the current owner Mr. Don Ray.

Ryan Simons told the Board that this is a preliminary plat for a three lot division in Salvo. He stated that the project was originally proposed as a group development in January 2005.

Mr. Simons stated that the primary issue that staff has is the issue with the disposal of the underground storage tanks associated with the gas station currently located on the site. He stated that the County Engineer has recommended that the removal of these tanks be done according to state and federal standards, as well as how best to dispose of the travel trailers on the property now.

1. Board discussed the removal of the underground storage tanks associated with the Gas station.
2. Removal/disposal of the existing travel trailers on the site

A motion to recommend preliminary plat approval subject to the following conditions was made by John Myers, seconded by Ricky Scarborough, Jr.:

1. Dumpster site being added to a revised plat
2. NCDOT approval on driveway cuts for lots
3. Travel trailers and storage tanks being removed prior to final plat approval.
4. The square footage of the uplands on each lot being depicted on the plat and included in the notes.

Vote: Ayes – Unanimous

OTHER BUSINESS

NC General Statute (SB 518) – Revisions

Senior Planner Donna Creef informed the Board that Mr. Outten has informed staff of a new legislation passed by the NC General Assembly that says when the Planning Board and Board Commissioners review zoning amendments a finding of consistency has to be adopted.

Mrs. Creef asked the Board to make a “finding” on the following items previously reviewed in 2005 which are now being forwarded to the Dare County Board of Commissioners: Nunnally Rezoning Request, the Draft Wanchese Zoning Map, and SED 1 Zoning District amendments. Mrs. Creef provided the Board with draft “findings” for the Board’s consideration.

The Board made the following “Findings”:

1. A motion was made by John Myers, seconded by Joe Thompson to adopt the “finding” on the Nunnally rezoning as drafted by staff.

Vote: Ayes - Unanimous

2. A motion was made by Cathy Morris, seconded by Ricky Scarborough, Jr. to adopt the “finding” on the Wanchese Draft Zoning Map and Associated Regulations as drafted by staff.

Vote: Ayes – Unanimous

3. A motion was made by John Myers, seconded by Joe Thompson and Cathy Morris to adopt the “finding” on the Text Amendment to add mobile homes to the list of permitted uses in the SED-1 Zoning District as drafted by staff with option B selected.

Discussion on the motion: John Myers commented that this is a real compromise for him because he is not in favor of mobile homes in Dare County. He stated that having two options to choose from made a difference.

Vote: Ayes – Unanimous

ADJOURNMENT

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

Vote: Ayes – Unanimous

Respectfully Submitted,

Jacqueline J. Tillet
Senior Administrative Support Specialist

APPROVED: 3/13/06

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