

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, July 9, 2007. This meeting was held in the meeting room of the Dare County Administrative Annex, 204 Ananias Dare Street, Manteo, NC

CALL TO ORDER 7:00 pm

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

APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the June 11, 2007 Planning Board meeting, a motion was made by Cathy Morris, to dispense with reading them and to approve them as submitted. The motion was seconded by John Myers.

Vote: Ayes – Unanimous

OLD BUSINESS

Seatree, LLC Subdivision – Roanoke Island – Preliminary Plat

Chairman Midgett permitted public comment from the following:

1. Joann Adams resident of Sunnyside Drive expressed concern regarding children that live in the neighborhood and the safety of the road if additional traffic is added. She stated that the current road does not meet the state standards. She pointed out that the Dare County Ordinance states that no subdivision could be connected to a road that cannot be upgraded to NCDOT standards, and stated that Sunnyside Road cannot be upgraded to NCDOT standards. Mrs. Adams told the Board that the proposed division could be accessed through the adjacent Langley Lane in the Dogwood Hills Subdivision.
2. Julie Imeson resident of 128 Sunnyside Drive expressed concern about opening up their community to a development and the safety of the road. She asked that the Planning Board deny approval of the proposed division.

Doug Langford representing the applicant, Seatree, LLC. (The Jones family) was present. He introduced Mr. Ike McCree, Attorney with the firm Hornthal, Riley, Ellis and Maland. Also present was Eddie Valdivieso of Quible and Associates.

Mr. Ike McCree addressed the Board and discussed the issue of legal access for the proposed division. He provided the Board with a written opinion on access to real property which is also on file in the Planning Department.

Mr. McCree told the Board that after examining records maintained in the Dare County Register of Deeds Office (Declaration of Protective Covenants for Dogwood Hills Subdivision, amendments, plat(s) of record for Duke Woods Subdivision, deeds of property necessary to render an opinion on access and relevant NC law, he is of the opinion that the only means of ingress and egress to the Seatree, LLC property is by way of Sunnyside Drive through Sunnyside Subdivision. He stated that there is no legal access to Sunnyside Drive via Langley Lane. He explained that the Declaration of Protective Covenants for Dogwood Hills Subdivision prohibit access, and the portion of lot 13 in the Dogwood Hills Subdivision is owned by a third Party and Seatree, LLC do not own or have any legal right to use the property for access.

Mr. McCree stated that the proposed division does not pose additional or unacceptable risk to public health and safety anymore than any other subdivision or street in a community.

Eddie Valdivieso informed the Board that the physical layout, the S-turns into the property, and the radius of the turns are smaller than NCDOT minimum subdivision standards. He told the Board that it is his opinion those are the primary reasons why NCDOT would not accept Sunnyside Road into the public street maintenance system. He further stated that the addition of 13 lots onto this road will not pose a significant public health or safety threat.

After discussing the proposed access to the Seatree, LLC property at length, a motion to recommend denial of the Seatree, LLC Division based on safety concerns associated with access to the site via Sunnyside Drive was made by Cathy Morris, seconded by John Myers.

Vote: Ayes – (John Myers, Cathy Morris, Ricky Scarborough, Jr.,
Beth Midgett, Joe Thompson, Elmer R. Midgett, Jr.
Noes – (John Finelli)

Jeffrey W. Gutmann – Rodanthe – Preliminary Plat

Mearl Meekins, Jr. of W. M. Meekins, Jr. and Associates was present to represent this proposed division.

Senior Planner Donna Creef presented staff comments, and told the Board that this item was reviewed as sketch plan by the Board in May. At that review the Board expressed a need for comments from the Fire Marshal regarding the access to parcel 3. Mrs. Creef stated that Mr. Remaley has provided comments regarding the access to parcel 3 via e-mail indicating that he is comfortable with the level of driveway and road improvements as long as the drive portion is a minimum of 15' wide, the addition of the fire hydrant and the turn around at the end of the driveway is installed. She stated that Mr. Remaley expressed a concern regarding the further division of parcel 3. Mrs. Creef stated that a note included on

the final plat for recordation and language being included in the restrictive covenants that would require any further division to be reviewed and approved by the County along with the installation of additional road improvements.

The Planning Board discussed trash pick-up, driveway and turn around for vehicles, fire/emergency and trash trucks.

Joe Thompson made a motion, seconded by Cathy Morris, to recommend approval of the Jeffery W. Gutmann preliminary plat subject to the following:

1. Clarification from the Fire Marshal on the location of the proposed fire hydrant referenced in his e-mail to Senior Planner Donna Creef. The developer shall install the necessary engineered waterline improvements for the fire hydrant and water service to the proposed parcels.
2. Language being added to the plat and included in the restrictive covenants/homeowners documents stating that no further division of parcel 3 shall occur without additional approval by Dare County and additional access improvements.
3. Revised plat addressing the stormwater management information as required by the Dare County Subdivision Ordinance.
4. A common driveway shall be constructed of gravel to access parcel 2 and parcel 3 off Wanda Court. This driveway shall be constructed of 6" compacted sub-base and completed as part of the preliminary plat improvements.

Vote: Ayes – (Elmer Midgett, Cathy Morris, Joe Thompson,
Ricky Scarborough, Jr., and Beth Midgett
Noes – (John Myers and John Finelli)

Collingwood – Colington – Group Housing Development – Conditional Use Permit

Senior Planner Donna Creef presented staff comments. She told the Board that this site plan was reviewed as a sketch plan in November 2006. At that time the Board indicated the developers would need to have their stormwater management permit prior to coming back for review. Mrs. Creef explained that the main portion of the property is not a part of Colingwood Subdivision but is a remnant of the tract that was originally Colingwood Subdivision. She stated that they are owners of lot 14 and they will be subdividing lot 14 so that there is a remnant residential lot and the rear of it will be used for stormwater improvements.

Mrs. Creef told the Board that the developers received their stormwater management permit from the State of North Carolina today, and has comments from the Health Department a copy of which was provided at the Board's seats.

Mrs. Creef suggested that comments from the Health Department be included as a condition of approval if the Board is inclined to recommend approval. She provided a draft CUP for the Board's review and consideration.

The Board discussed the installation of a turn around area, length of CUP approval, submission of a wetland verification plat, and timeframe for the commencement of construction, and emergency vehicle access.

John Finelli made a motion, seconded by Joe Thompson, to recommend approval of the Conditional Use Permit for Colingwood as submitted by Senior Planning Donna Creef with the following amendments:

1. Condition #4 – All infrastructure improvements shall be completed within 12 months of the start of construction of the improvements. The developer shall notify the Planning Department staff in writing of this construction start. A 12 month extension may be granted by the Planning Board if necessary.
2. Condition #5 - This conditional use permit and site plan approval shall be valid for a period of three (3) years from the date of Dare County Board of Commissioners approval. An extension of this original approval period may be granted by the Dare County Board of Commissioners, upon recommendation by the Dare County Planning Board. A written request for an extension shall be made by the developer and shall outline the reasons for an extension.
3. Condition # 7 - The wetland plat prepared by Dennis Hawthorne shall be verified by the U.S. Army Corps of Engineers prior to the issuance of individual construction permits for home-sites 7 – 12 by the Dare County Building Inspector. A copy of the signed plat as well as wetland fill permits shall be submitted to the Dare County Planning Department. Additional review of the site plan may be required if substantial changes to the site plan result from the Army Corps of Engineers review of the wetland plat, or if the wetland fill permit is not secured by the developer as proposed.
4. A small turn around area shall be installed near home site 12.
5. An emergency service vehicle entrance will be constructed for direct access to SR 1217 (Colington Road). The use of this access will be strictly for emergency purposes only. Use of this access by property owners and other private vehicles will be prohibited. Access to this entrance shall be coordinated with the Colington Fire Department.

Vote: Ayes – Unanimous

OTHER BUSINESS

Amendment to Chapter 152, Planning and Development – Referral from Dare County Board of Commissioners

Senior Planner Donna Creef told the Board that at the June 18, 2007 Board of Commissioners meeting, the Board discussed building height and gross floor area regulations for Dare County and the need to ensure that all commercial zoning districts and unzoned areas were covered by building height and gross floor limitations. She stated that staff was instructed to review the Zoning Ordinance and all other land use ordinances to identify any amendments that may be needed to apply to all portions of unincorporated Dare County, zoned and unzoned areas.

Mrs. Creef stated that she reviewed all of the commercial zoning districts and the only district that does not have any gross floor limitations is the SP-C district which applies to Stumpy Point, and the only area unzoned in unincorporated Dare County is East Lake. Based on that staff work, she provided the Board with a copy of the revised Chapter 152 proposed for amendment for the Board's review and consideration as follows:

1. The language for the building height standard is revised from the highest floor elevation to the highest roof elevation.
2. A gross floor area limitation of 20,000 square feet of both heated and non-heated space has been added.
3. A sentence has been added which addresses the use of these standards in zoned and unzoned areas. For those zoned areas with building height standards or gross floor area limitations that vary from the Chapter 152 language, the Zoning Ordinance shall take precedence.
4. A definition of building height has been included since one did not exist.

Mrs. Creef explained that this is something that the Board of Commissioners has requested of staff, and because it is a change to a land use ordinance the Planning Board has to review it and make a recommendation.

Planning Board member John Finelli commented on the 20,000 square foot limitation, and suggested that an exception for County owned and governmental facilities be considered.

John Myers made a motion to recommend adoption of the amendment as presented and to exempt County owned/governmental facilities, hotel and motels, and that this amendment is consistent with the Dare County Land Use Plan and all other County Ordinances. This motion was seconded by John Finelli

Vote: Ayes – Unanimous

ADJOURNMENT

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

Respectfully Submitted,

Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: August 13, 2007

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