

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, December 8, 2008 in the meeting room of the Dare County Administrative Annex, 204 Ananias Dare Street, Manteo, NC.

I. CALL TO ORDER 7:00 PM

II. MEMBERS PRESENT

Elmer R. Midgett, Jr. – Chairman	John Finelli
Richard “Ricky” Scarborough, Jr.	Mary Beth Midgett
David Overton	Henry Haywood
Dan Oden	

III. APPROVAL OF MINUTES

There being no additions or deletions to be made to the minutes of the November 10, 2008 meeting of the Dare County Planning Board, a motion to dispense with reading them and to approve them as submitted was made by Henry Haywood, seconded by David Overton.

IV. PUBLIC HEARINGS

Chairman Midgett explained that each of the public hearings will be conducted separately. He stated that staff will present comments, the applicant will be permitted to address the Board and then comments from the public will be heard. He asked all that all public comments be kept to a maximum of three minutes.

a. Crystal Crocket – Manns Harbor – Zoning Text Amendment (MH-B) – to add “BEACH BINGO” as a conditional use

Senior Planner Donna Creef told the Board that Mrs. Crystal Crockett has submitted a proposal to add “Beach Bingo” to the list of conditional uses in the MH-B district located in the Manns Harbor/Mashoes area. She stated the amendment was advertised as a conditional use in the Coastland Times newspaper.

Mrs. Crystal Crockett was present and told the Board that she is requesting a conditional use in the commercial section of Manns Harbor. Mrs. Crockett cited NC State law, Section 14-309.14 (Beach Bingo). She told the Board that her clientele will be 40 to 60 years old, and will be mainly women who are established in the community. She informed stated that she did meet with the members of the community to hear concerns regarding her proposal. She told the Board that a lot of the concerns were regarding safety issues, drinking and noise. Mrs. Crockett assured the Board that it is unlawful for alcohol to be served in a Beach Bingo establishment and she

would not permit such activity. She stated that she would operate according to all State and Federal laws. She told the Board that the prizes awarded would be valued at \$10 or less and the business would not be noisy or detrimental to the community, but an asset and a source of revenue for Manns Harbor.

Mrs. Crockett informed the Board that she would not operate the Bingo establishment on Sundays and would cease all activity at midnight on Saturday.

Chairman Midgett opened the floor for public comment and stated that all speakers should address the Board and not the audience.

The following citizens/residents of Manns Harbor rendered Public comments in opposition of the requested text amendment. Speakers also identified concerns for safety, noise, the need to maintain a family and youth oriented community, and expressed concern regarding amending an Ordinance so soon after adoption.

1. Cyndi Mann Holda - President, Manns Harbor Civic Association, resident and private business owner.
2. Mr. Anthony Ralph - Pastor of The Harbor Light Church and resident/property owner.
3. Mr. Keith Fox - Pastor of the church that is right across the street from the site of the proposed Beach Bingo establishment.
4. W. R. Beasley - Former Pastor and resident property owner.
5. Jesse "Sonny" Ambrose – Resident of Manns Harbor

Mr. Joe Simon, Sr. was the only speaker to speak in favor of the proposed text amendment.

After taking the public comments into consideration and discussing the proposed amendment, a motion was made by Beth Midgett, seconded by Ricky Scarborough, Jr. to recommend denial of the application to amend the text of the MH-B zoning district to add BEACH Bingo. The Board indicated in the motion that the Manns Harbor zoning map and associated text was adopted in 2007 and many residents of the community are opposed to the proposed amendment and feel that it is too soon to amend the map and associated text.

Vote: Ayes – Unanimous

David and Mary Elizabeth Being – Text Amendment to VC-2 District – to add tattoo studios to the list of conditional uses

Senior Planner Donna Creef told the Board Mr. and Mrs. David Bein is requesting an amendment to the VC-2 zoning district to add tattoo studios to the list of conditional uses. She noted that the Dare County Zoning Ordinance does not currently include a definition for tattoo studios; and if this is something that moves forward through the public hearing process, the draft definition included with the staff comments will need to be recommended for adoption.

Mr. David Bein and wife, Mary Elizabeth Bein were present. Mr. Bein told the Board the concept of a tattoo studio is something that is new to Colington but not new to Dare County. He stated that he has opened two successful establishments in Dare County (one in Salvo and one in Manns Harbor) of which have been assets to the community. He told the Board that the crime rate in and around these establishments have not accelerated or declined in anyway and therefore is not a burden on the community. Mr. Bein stated that he has been active in the community as a volunteer and a paid firefighter for the Colington Fire Department, and recently resigned his position to pursue this as his continuing career. Mr. Bein told the Board that he is currently the Chairman of the Fine Arts committee at First Flight Middle School.

Chairman Midgett opened the floor for comment from the public.

The following people spoke on behalf of Mr. Bein's requested text amendment. They each praised Mr. Bein's character, reputation, integrity, professionalism and cleanliness.

1. Mr. Kenneth Crawford – Resident of Colington
2. Mr. Frank Lasser – Pastor at OBX Nation
3. Mr. Stephen Kovax - Instructor with the fire department, and President of the Outer Banks Professional Fire Fighters Association
4. Ms. Jennifer Alexander – Colington property owner and also a Dare County business owner.
5. Wally Oden – Mr. Bein's pastor.
6. Kevin DuPrey – Dare County Deputy Sheriff and customer.
7. Matt Dixon – Associate Pastor at OBX Nation
8. Jesse Etheridge – Member of OBX Nation youth group

After hearing all comments, and discussing the text amendment submitted by Mr. Bein, a motion was made by Ricky Scarborough, Jr. to recommend approval of the VC-2 text amendment with the associated definition for tattoo studios prepared by staff. The Board also found the proposed amendment to be consistent with the Dare County Land Use Plan. This motion was seconded by Henry Haywood.

Vote: Ayes – Unanimous

Text Amendment – address ancillary uses in residential zoning districts

Senior Planner told the Board that this public hearing is to consider a proposed amendment to the Dare County Zoning Ordinance entitled Ancillary Residential Uses. She stated that this amendment has been initiated at the direction of the Dare County Board of Commissioners.

Mrs. Creef stated the proposed language as advertised in the hearing notices address the following:

1. The operation of recreational motorized vehicles subject to several conditions.
2. The repair or restoration of motor vehicles, boats or other equipment.
3. The ownership of up to three horses for personal or non-commercial use per individual parcel.

The following people offered public comments in opposition to the proposed amendment to the Dare County Zoning Ordinance for residential ancillary uses in zoned areas, and the operation of motorcycles in residential neighborhoods.

1. Michael Lay
2. Teresa Stewart – Due to Ms. Stewart having laryngitis Senior Planner Donna Creef read written comments prepared by Ms. Stewart.
3. Mary “Tinka” Martin

The following people offered public comment in support of the proposed amendment to the Dare County Zoning Ordinance for residential ancillary uses in zoned areas:

1. Stephen Johnson – presented a petition consisting of 44 names in support of the amendment
2. James Cahoon
3. Gregory Spencer
4. Ivey Johnson
5. Michael Midgett
6. Rachel Johnson
7. James Hillard
8. J.R. Tolson
9. Wayne Kidd
10. Jack Cook

Mr. Robert Mueller, Nags Head Commissioner addressed the Board and stated that the Town of Nags Head recently adopted a noise ordinance. He suggested that the Board have a demonstration of the noise levels measured from the property line.

The following made public comments in reference to the regulations on the restoration of motor vehicles and the number of horses allowed:

1. Mr. Billy Holton – commented on the vehicle restoration
2. Ms. Joann McCook – Suggested that the number of horses should increase incrementally with the size of the parcel.
3. Mr. Michael Midgett also commented that he doesn't want to be limited to being able to have three boats on his property for repair.

This Public Hearing closed at approximately 8:56 PM

After a discussion of the comments received and the issue of noise from motorcycles raised by speakers the Planning Board concurred to table this item for discussion until the January 12, 2009 meeting. A motion to table this item was made by Ricky Scarborough, Jr., seconded by Henry Haywood.

Vote: Ayes – Unanimous

V. OLD BUSINESS

VI. NEW BUSINESS

a. Inn at Rodanthe – Hatteras – Group Development - Sketch Plan Review

Senior Planner Donna Creef told the Board that the sketch plan for the Inn at Rodanthe is for a proposed group development consisting of two commercial structures: a 44-room hotel featuring a 50-seat restaurant and a 3,400 square feet retail/office building. The property is zoned S-1 and all uses are permitted in the S-1 district. She noted that there is an existing single family residence on the tract and the tract is 5.5 acres in size. If it proceeds forward to the next step it will be reviewed as a conditional use permit subject to review by the Planning Board and the Board of Commissioners.

Mrs. Creef reminded the Board that the S-1 zoning district includes specific units per acre standards for hotels which are based on the amount of wetlands on the site. She stated that a range of 6-10 units per acre may be authorized depending on the amount of wetlands. Mrs.

Creef stated that detailed information to demonstrate this density calculation will be required when a preliminary site plan is submitted for review, as well as a building layout and individual room layout to ensure compliance with the definition of “hotel” included in the Zoning Ordinance.

Regarding access to the site, Mrs. Creef told the Board that parking improvements will be constructed from NC 12.

Lee Tugwell, John Robbins, Jr., Land Planner and the property owner Mr. Britt were present for the review of the sketch plan for the proposed group development.

John Robbins, Jr. Land planner told the Board that the developers will invest in the engineer and design aspect of this group development project as they move along in the review process. He further stated that they have not done so yet because they wanted to get feedback from the Planning Board on the feasibility of the proposed project. He also stated that a wetland survey has been done and was submitted.

Mrs. Creef suggested that specific details of what is going to be in the 3400 square foot retail/office building be included with the preliminary site plan.

Although the Board took no action on this sketch plan, they did discuss the proposed project and offered the following comments:

1. The preliminary site plan for the group development project must include more detailed information on the hotel floor plan and individual room layouts. The Board explained that this information is needed to demonstrate compliance with the definition of “hotel” as defined in the Dare County Zoning Ordinance.
2. The access improvements depicted on the sketch plan appear to be adequate to service the two building group development.
3. Additional details on the proposed retail/office building will be necessary at the time of preliminary site plan review.
4. Any supplemental permits such as CAMA, stormwater management, and wastewater permits must be secured prior to submission for preliminary site plan review. The Board acknowledged the length review process associated with obtaining the State wastewater permit and indicated that at least a second phase approval on the wastewater layout and components would be required.

b. Tar Heel Shores – Salvo – Preliminary Plat

Eddie Valdivieso of Quible and Associates was present for the review of this preliminary plat.

Senior Planner Donna Creef presented staff comments. She told the Board that proposed subdivision consists of 14 lots in Salvo. She stated that access is proposed via a 45' wide right-of-way that will be dedicated to public use based on the newly adopted road standards.

Mrs. Creef made the following comments for the Board's consideration and discussion:

1. Lots 1 and 4 are adjacent to NC 12, and access to these lots should be restricted to Tar Heel Court. She stated that a note should be added to the plat and language addressing this included in the restrictive covenants.
2. The improvements on lot 1 and 4 should be construed within the principle use setbacks. She stated that detached pools are generally afforded reduction in the setback of up to 5' from rear and side property lines. However, due to the proximity of NC 12 and the high volume of traffic on this road, Mrs. Creef suggested that a condition of approval be that all detached structures be located within the principle use setbacks on these two lots. She noted that this should also be noted on the plat and restrictive covenants.
3. Mrs. Creef briefly discussed the unusual design of lots 3, 12, and 13. She noted that typical layouts of structures should be submitted to the Planning Board to demonstrate compliance with all required setbacks. She stated the setbacks for these lots will need to be pre-determined and submitted to staff and kept on file prior to recordation of the final plat.
4. Mrs. Creef informed the Board that a wetland verification plat has been submitted and is on file.
5. Mrs. Creef noted that a subdivision sign easement area has not been included on the plat.
6. Mrs. Creef noted that since the street improvements will be dedicated as a public road, the Dare County Subdivision Ordinance now requires a signed statement from a professional engineer stating that the streets will be constructed in compliance.

Eddie Valdivieso told the Board that the right-of-way has been changed where it abuts the property line of Hatteras Colony Subdivision.

John Finelli made a motion to recommend preliminary plat approval of the Tar Heel Shores Subdivision subject to the following:

1. The plat being revised to depict the separation from the Hatteras Colony Subdivision and the right-of-way for Tar Heel Court being submitted.
2. A plat demonstrating compliance with applicable setbacks on lots 3, 12, and 13. This should

also include the depiction of a rear yard setback on lot 3.

3. Inclusion of notes on the revised plat to preclude access to lots 1 and 4 from NC12 and to require the location of all structural improvements within the principle use setbacks for these two lots. This information should also be included in all homeowner's documents.
4. Depiction of a sign easement on lot 1 on the revised plat.

This motion was seconded by Ricky Scarborough, Jr. and David Overton.

Vote: Ayes – Unanimous

VII. OTHER BUSINESS

a. Revisions to Dare County Nuisance Ordinance – Discussion

Mrs. Creef provided a copy of the revised Dare County Nuisance Ordinance. She told the Board that Mr. Finelli had sent her comments and she will send the Board a revised copy of the suggestions made by Mr. Finelli.

Mrs. Creef asked the Board to review the ordinance and be prepared to discuss it at January meeting or workshop next week.

Chairman Midgett suggested this item discussed at the workshop next week.

Subdivision Ordinance Amendment

Mrs. Creef provided the Board with a copy of the draft Subdivision Ordinance Amendment and told the Board that this amendment has come about as a result of the day to day administration of the Subdivision Ordinance. She stated that recently the Planning Department had a property owner present a proposed recombination of non-conforming lots that was determined to not meet the recombination conditions outlined in #4 of the subdivision exemption language. She stated that the resultant lot sizes of the new configuration would still have been less than the current minimum lot size of 15,000 square feet. Mrs. Creef told the Board that #4, states that any resultant lots must meet the current standards. An amendment to add two sections (#5 and #6) to the exemption language has been drafted for the Board's consideration.

A motion to favorably recommend the adoption of the amendment to the Dare County Subdivision Ordinance as drafted by staff was made by Ricky Scarborough, Jr.; seconded by Henry Haywood.

Vote: Ayes – Unanimous

VII. Adjournment

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

Vote: Ayes – Unanimous

Respectfully Submitted,

Jacqueline J. Tillett
Senior Administrative Support Specialist

APPROVED: January 12, 2009

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