

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Wednesday, November 6, 2013. This meeting was held in the Dare County Board of Commissioners meeting room located at the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

CALL TO ORDER 7:00 pm

MEMBERS PRESENT	Elmer R. Midgett, Jr. – Chairman	John Finelli
	Michael Barr	Dan Oden
	David Overton	

MEMBERS ABSENT	Richard “Ricky” Scarborough, Jr.	Beth Midgett
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APPROVAL OF MINUTES

There being no corrections or additions to the minutes of the October 14, 2013 meeting of the Dare County Planning Board, Michael Barr made a motion to approve the minutes as submitted. David Overton seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

Darlin Rose of 138 Joclal Lane spoke.

Regarding the Etheridge Acres Subdivision, which will abut to Joclal Lane properties, Ms. Rose said she would like to note the following:

1. It may be advantageous for the water line in the new subdivision to connect or loop to the existing water line on Joclal Lane.
2. There is concern on Joclal Lane about stormwater runoff from the new subdivision.
3. She does not want the new subdivision road to connect to Joclal Lane.
4. Joclal Lane property owners would like the opportunity to address encroachment issues, if any exist, regarding structures such as fences or sheds.
5. It would be preferable if a buffer of trees would remain along the back property lines of the new subdivision.

The Public Comment portion of the meeting closed at 7:06 p.m.

OLD BUSINESS - None

NEW BUSINESS

C-2 Text Amendment for Non-Conforming Group Developments, Hatteras Island Plaza

R.V. Owens, III and David Ryan were present on behalf of OT Enterprises.

Donna Creef began the discussion. The proposed text amendment is for the C-2 zoning district which exists throughout Dare County. This is a result of discussions with OT Enterprises about infrastructure improvements at Hatteras Island Plaza. The construction of Hatteras Island Plaza took place before there was zoning of any kind on Hatteras Island. The lot coverage and parking calculations that are there have been rendered non-conforming because of zoning regulations that have since been adopted. OT Enterprises is asking to amend the C-2 regulations to address existing group developments that are non-conforming under the current parking and lot coverage standards. Both OT Enterprises and staff have submitted a draft of the text amendment. Staff tried to address the wording of the amendment to better match how the language is written in the ordinance as well as addressing situations that may occur in the future. This is specific to the C-2 district only and does not address other non-conformities that may exist. Ms. Creef said that any action tonight should also include a finding of consistency, or inconsistency, with the Dare County Land Use Plan.

David Ryan spoke on behalf of the applicant, OT Enterprises. Hatteras Island Plaza subdivision was planned in the mid 1980s and has remained relatively consistent with the master plan. After that time, Dare County adopted zoning regulations for Hatteras Island. This impacts Hatteras Island Plaza by limiting the developer to what is currently there. Anything other than what is currently there requires a text amendment for the zoning district. Mr. Ryan said the developer is trying to make Hatteras Island Plaza more marketable and trying to prevent any unintended consequences of the text amendment being applied to other developments.

Mr. Finelli asked if the applicant had any issues with the language in the text amendment draft that was submitted by Donna Creef. Mr. Ryan said they do not. Mr. Finelli also asked if we need to include a statement to prevent any subdivision of land resulting in a vacant lot. Mr. Finelli's concern is to prevent a site from becoming more non-compliant as a whole. Mr. Ryan said they are trying to achieve a reduction in lot coverage which will result in a decrease in lot coverage for the entire development. He is also addressing parking for the specific parcel so it will conform to current zoning requirements. Mr. Finelli, Ms. Creef, and Mr. Ryan discussed the lot coverage at Hatteras Island Plaza, adjacent parcels, and parking agreements. Mr. Ryan does not believe there is any way to subdivide the development that would result in a parcel that did not have a structure and parking on it. The specific area being addressed is the theater. The

developer would like to change the use of the structure and also reduce the footprint of the structure.

Donna Creef explained that sub-paragraph (b) of the draft text amendment requires a 10% decrease in lot coverage for the portion of the land which is to be altered or replaced by subdividing it from the group development. If there is a subdivision, the portion of land that is to be redeveloped will have to be identified. The subdivision of the land is tied to the redevelopment activity. It is not designed to accommodate creating a parcel for a new, vacant area where more structures can be added within the existing group development.

Mr. Ryan said that OT Enterprises is trying to achieve conformity to the maximum extent possible.

RV Owens addressed the Board. He explained the difficulties that the group development has faced recently, including storms and vacant businesses. Mr. Owens said he is not trying to do more at the site but is trying to redevelop the theater for another purpose because it is no longer a viable business in the area.

John Finelli made a motion to recommend approval of the C-2 text amendment as drafted by staff adding that the Board finds the C-2 Text Amendment to be consistent with the policies of the 2009 Land Use Plan, in particular with Policy LUC#5, which says: "Dare County encourages the continued existence and development of locally-owned businesses in unincorporated Dare County. Implementation Strategy: 1. Inventory of older existing commercial businesses and consideration of zoning amendments to ensure their replacement or repair in the event of damage from a natural disaster."

The draft of the C-2 text amendment as submitted by staff reads as follows:

SECTION 22-25 C-2 General Commercial District

(d) Dimensional Requirements.

10. Commercial group developments constructed prior to October 20, 1992 which are served by a centralized wastewater treatment system that could not be built under the terms of this chapter by reason of restrictions on lot coverage, height, yards, location, and off-street parking shall be allowed to continue in operation subject to the following provisions:

- a) No structure which is part of the commercial group development shall be enlarged, replaced, or externally altered in a manner that increases any non-conforming aspect of the structure and/or the commercial group development site. However, any such structure may be externally altered or replaced if such redevelopment activity results in a decrease of its nonconforming status. For the purposes of this section, externally altered shall not be interpreted to prevent painting of the exterior, replacement of exterior materials, or other cosmetic changes or maintenance to the structure or portions thereof. This shall not apply to interior alterations, remodeling, or other improvements made to internal portions of any structure located on the commercial group development site.
- b) A decrease of 10% of the existing lot coverage shall be required for that portion of the commercial group development site on which the structure to be altered or replaced is located.
- c) The off-street parking requirements of Section 22-56 Same-Number of Spaces Required shall only be applied to that portion of the commercial group development site where the structure proposed for alteration or replacement is located. No other changes in the parking ratio for the remaining structures or portions of the commercial group development shall be required as a result of the redevelopment activities.
- d) A subdivision of the land occupied by the commercial group development may be authorized by Dare County if such subdivision of land meets the required minimum lot size in effect at the time of the proposed subdivision of the commercial group development site. Redevelopment activities on any lot created by such subdivision of land shall be subject to the provisions of subsections (a) – (c) above.

Michael Barr seconded the motion.

Vote: Ayes – Unanimous

The proposed text amendment will be forwarded to the Dare County Board of Commissioners for consideration at their meeting on December 2, 2013.

Etheridge Acres Subdivision, Manteo, Preliminary Plat Review

Derek Hatchell, property owner, and Michael Strader of Quible and Associates were present at the meeting.

Donna Creef addressed the Board. The proposed 10 lot subdivision is on a 6.87 acre tract of land which is adjacent to Payne Road (SR 1124) on Roanoke Island. The proposal includes the installation of a new road with a 50' right-of-way and 20' of paved improvements. The

subdivision ordinance requires that the road be dedicated as a public road and this needs to be indicated on the plat. Covenants will be submitted to the staff and they need to include language addressing the maintenance of the street until it is accepted by the state. There is no street name on the plat. The project will be connected to the Dare County water system and a willingness to serve letter has been received from the water department. There will be individual, on-site septic systems. There are wetlands indicated on the plat and a wetland filling permit will be needed. A stormwater management plan is not required with the preliminary plat but Mr. Strader has indicated one will be submitted because of the project's proximity from SA waters. There must be 15,000 square feet of non-wetlands soil in each lot. Ms. Creef recommends having the driveway improvements to lot 9 installed by the developer as part of the roadway improvements. Some lots are unusually configured and the footprints of the structures need to be included on the plat to demonstrate compliance with the setbacks. The use of drainage easements need to be addressed in the covenants for the benefit of future property owners. Since the lots are heavily wooded, Ms. Creef suggested that the covenants require owners to leave a vegetative buffer along the rear property lines. The Public Works Director has asked that property owners be made aware there should be no parking on the cul-de-sac. Ms. Creef also suggested a condition be included to provide a staging area for construction parking and equipment off of the right-of-way of Payne Road. Lot 2 may be a good area to use as the staging area.

Michael Strader of Quible and Associates spoke next. He provided the following documents to the board: (1) an itemized list of responses to Donna Creef's Subdivision Factsheet; (2) an updated preliminary plat; and (3) a sketch plan. In response to Ms. Rose's comments, Mr. Strader said a water line design has been reviewed and approved by Dare County Water and there is no loop currently proposed. If there is a desire to interconnect or loop the water lines a utility easement would be needed. Regarding the stormwater drainage, the developer will be applying to the state for a stormwater permit. The conceptual stormwater plan is included in the information given to the Board. There is no proposed tie-in with the subdivision's road to connect it with Jocular Lane so there should not be thru traffic. The proposed subdivision has a cul-de-sac sized in accordance with DOT standards. Boundary and topographic surveys have been performed and have not located any sheds or fences that may be encroaching. If something is found to be encroaching, the developer would certainly work with the property owner to resolve this. Regarding the buffer of trees along the rear property line, the applicant would have no problem incorporating language to address this in the covenants for the subdivision.

Chairman Midgett asked if lot 10, including the fill, will be 15,000 square feet. Mr. Strader said all ten lots, when filled, will have the 15,000 square foot minimum requirement. Ms. Creef

pointed out that lot 10 is showing an upland area of 13,816 square feet with an additional 527 feet that will have fill and that won't equal 15,000 square feet. Mr. Finelli said lot 8 doesn't have 15,000 square feet either. Ms. Creef said 15,000 square feet of non-wetland soil is the minimum requirement. Mr. Strader said they will address the square footage to be sure all lots are compliant.

Ms. Creef, Chairman Midgett and Mr. Hatchell discussed the possibility of connecting the water line to the existing water line on Jocular Lane. If the lines were to be connected, that would likely involve easements on properties and the removal of trees. Ms. Rose mentioned that lots 12 and 13 are owned by the Airport Authority and that might provide an opportunity for water line easements. Ms. Creef said this topic will be discussed with the Fire Marshall and the Water Department.

Chairman Midgett recommends not requiring a vegetative buffer on the back property line of the proposed subdivision because no such requirement is in place for the adjacent properties. Ms. Creef said both the existing properties and proposed subdivision appear to have a significant amount of vegetation and the developer is willing to list a vegetative buffer as a requirement in the covenants. The buffer would be within the required setbacks. This also is dependent on all lots meeting the minimum 15,000 square foot requirement.

Chairman Midgett discussed the property elevations and the amount of fill that will be used as this relates to stormwater drainage. Mr. Hatchell said the elevation is the same for adjacent properties that were previously developed. Chairman Midgett asked that the final plat demonstrate adequate drainage.

Mr. Finelli asked if this is a private road and Ms. Creef responded this will be dedicated as a public road and that will be indicated on the plat. Mr. Finelli asked for clarification in the covenants to specify which property owners are responsible for the maintenance of the road until such time as the state accepts the road because some driveways may not be connecting to the new street. Mr. Hatchell responded that they plan to have the state takeover maintenance as soon as possible following construction of the road.

Ms. Creef asked if septic evaluations have been done for the proposed subdivision. Mr. Hatchell said he is working with the Health Department on perc tests. Mr. Strader said he is working with Mr. Flythe on soil tests and any other requirements.

The Etheridge Acres Subdivision preliminary plat review was deemed a sketch plan review at this time and no formal action was taken.

OTHER BUSINESS – Donna Creef provided the Board a copy of the Planning Board meeting dates that have been scheduled for 2014.

ADJOURNMENT

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

Vote: Ayes – Unanimous

The meeting adjourned at 8:15 p.m.

Respectfully Submitted,



Sharon L. Flatt
Planning Board Clerk

APPROVED:



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