

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, November 9, 2020. 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.

The meeting was streamed live at: www.youtube.com/darecounty

CALL TO ORDER 6:00 pm

MEMBERS PRESENT John Finelli, Chairman
Michael Barr Beth Midgett (remotely)
Terry Gore II Buddy Shelton
David Hines

MEMBERS ABSENT David Overton

APPROVAL OF MINUTES

There was a correction to the minutes of the October 12, 2020 meeting of the Dare County Planning Board. The correction was made to the first sentence of the sixth paragraph on page five. The sentence was moved to precede the motion to have Michael Barr rejoin the meeting. Terry Gore made a motion to approve the minutes as corrected. Michael Barr seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

Patrick Munson, of 25494 NC 12 Hwy, Waves, provided email comments to the Planning Board regarding the Conditional Permit Application for Waves Retreat Cluster Home Development. He is concerned about the density of the development affecting noise and trespassing, and is also concerned with fill and drainage issues.

C. Barton Decker, of Waves, provided email comments to the Planning Board regarding the Conditional Use Permit Application for Waves Retreat Cluster Home Development. He is concerned about the dwelling density adjacent to a historical site and if there is enough of a buffer to protect the historical site.

Eloise Sendi, of 40284 Moore Way, Avon, provided email comments to the Planning Board regarding the Conditional Use Permit Application to add additional travel trailer sites on an existing commercial property, Avon by the Sea RV Park. She is concerned about the need to extend a buffer in relation to her adjoining property, an increase of

noise, dumping area for waste in proximity to neighboring houses, parking and the shared use site.

Bonnie Regulski, of 40242 Moore Way, Avon, provided email comments to the Planning Board regarding the Conditional Use Permit Application to add additional travel trailer sites on an existing commercial property, Avon by the Sea RV Park. She is concerned about the effect an RV Park will have on the enjoyment, safety and value of her property.

Michelle and Lonnie McDonald, of Avon, provided email comments to the Planning Board regarding the Conditional Use Permit Application to add additional travel trailer sites on an existing commercial property, Avon by the Sea RV Park. They are not against having a travel trailer park but are concerned about privacy and losing access to the pier and pier activities. They are also concerned about length of stay and whether on-site staff will be available to address after-hour noise, parties or disturbances.

A copy of emailed public comments is available upon request.

OLD BUSINESS

-None-

NEW BUSINESS

Conditional Use Permit Application to Add Additional Travel Trailer Sites on Existing Commercial Property, Avon by the Sea RV Park, 41001 NC 12 Hwy, Avon, NC

Joe Thompson, of Avon Pier, LLC, Applicant, was present at the meeting.

Mr. Gillam told the Board that Joe Thompson on behalf of Avon Pier, LLC has submitted a conditional use permit application to allow for travel trailer sites on his existing commercial property in Avon. The parcel is 4.85 acres and zoned C-3 commercial; travel trailer sites on commercial property are permitted as a conditional use. Mr. Gilliam noted the travel trailer sites will also be subject to the guidelines and requirements of the Dare County Travel Trailer Park Ordinance.

Mr. Gillam said the applicant is proposing 26 sites on a two acre area dedicated solely to the use of the travel trailer sites. The Board received a site plan showing the existing and proposed improvements on the property. The site plan shows the proposed travel trailer sites in freeform configuration keeping the required 15 foot separation between

sites as required by the ordinance. A proposed bathhouse dedicated to the travel trailer sites is also depicted on the site plan.

Mr. Gillam said the applicant plans to use the existing onsite storm water infrastructure and wastewater treatment and disposal system for the travel trailer sites. Mr. Gillam added that the existing infrastructure was originally designed to support a much more intensive use. He noted the land disturbance associated with the installation of the travel trailer sites and improvements is less than 1 acre so a permit from North Carolina Division of Environmental Quality will not be required. A state stormwater management plan will be required.

Mr. Gillam said the site plan shows a proposed vegetative buffer along the northern property line; however a vegetative buffer will need to be installed along the perimeter of all the travel trailer spaces, except those adjacent to the dunes where the dune will act as the barrier.

Mr. Gillam said a typical cross section of the road improvements will need to be submitted as part of the permitting process.

Mr. Gillam said adjacent property owners have been notified that a conditional use application for a travel trailer park has been applied for. Mr. Gillam noted three public comments have been received. Copies of the emailed public comments were provided to the Board in their email and at their seats.

Mr. Gillam said the Fire Marshal has reviewed the site plan. A copy of the Fire Marshals comments were provided to the Board at their seats.

The Planning Board was advised that even though this is being handled as a conditional use permit (CUP), the proposed project has to follow the regulations set forth in the Dare County Travel Trailer Park and Campground Ordinance. Upon approval of the CUP, the applicant can apply for a building permit to start development. The applicant has 12 months to complete installation of improvements and submit a final plat for Planning Board review.

A draft CUP was provided to the Board for their review.

The Board discussed the buffer requirement. Mr. Gillam said the vegetative buffer has to be around the perimeter of the area where the RV sites are and not just on the north side as depicted on the site plan. The buffer needs to be extended on the site plan

before this item moves forward to the Board of Commissioners. Mr. Thompson asked if there was an option to build a fence rather than a vegetative buffer. Donna Creef said the ordinance is specific that it be a vegetative buffer. The CUP cannot delete the requirements of the ordinance. Ms. Creef noted the vegetative buffer will also cut down on noise from the RV's, which is a concern noted in public comment. Mr. Thompson asked if they can put a fence in addition to the vegetative buffer. Ms. Creef said a fence can be added in addition but it has to be a vegetative buffer.

Ms. Creef asked Mr. Thompson to explain what plan is in place to notify campers in the event of a Dare County emergency evacuation notice as required in the ordinance. Mr. Thompson said they can add information clauses to the electronic reservation with information about mandatory evacuation notices, quiet hours, pets and other rules of the park.

Mr. Thompson addressed the Board. He spoke about RV trends and how RV travelers benefit the Outer Banks. Mr. Thompson asked the record be noted that this piece of property is private property. He said Avon, LLC owns almost five acres of oceanfront private property and it gets treated daily as if it were public property. He added that his family understands what it means to the locals, homeowners and visitors to have that property to access the beach. They are just trying to bring a use they feel is underserved and would do a lot of good for a lot of people.

Terry Gore made a motion to recommend approval of the conditional use permit application subject to the following:

1. A 12 foot width needs to be added to Condition #5 to account for the areas of one-way travel.
2. The plat shall be revised to indicate the vegetative buffer will be extended to the entire perimeter of the RV Park with the exception of the frontal dune area where the dune will act as the buffer.
3. A gate shall be provided at the entrance of the park.

Michael Barr seconded the motion.

Vote: Ayes – Unanimous

Preliminary Plat Review, Old Wharf Estates, Phase 2, 19 Lot Division, Wanchese, NC

Joseph J. Anlauf, P.E., of Anlauf Engineering, PLLC, was present on behalf of the property owners.

Donna Creef addressed the Board. Ms. Creef said this is a preliminary plat for a 19 lot subdivision. The area is zoned Village Residential. All of the proposed lots contain the minimum area of 15,000 square feet. The lots, except for lot 5 will be accessed from a new road proposed for the division. The road will consist of a 45 foot wide right-of-way with 20 feet of paved improvements. Lot 5 will be accessed from an existing 20 foot easement from Old Wharf Road. This easement currently serves as access to the entire parcel. Portions of the easement that extend beyond lot 5 will be abandoned since the new road will serve as access to the other lots. A large retention basin/common area is proposed at the end of the road. Ms. Creef recommends fencing be installed around the basin as part of the preliminary improvements.

Ms. Creef noted there is an encroachment on lot 5 from the adjoining subdivision. The property owner is in the process of working with the mobile home owner to address and correct the encroachment.

Ms. Creef said the preliminary plat meets the intent of the ordinance. Ms. Creef additionally stated a state stormwater management permit is needed before preliminary plat approval can be granted.

The Board discussed the buffer requirement; specifically the barrier around the retention area. Mr. Anlauf said the retention basin will be a wet retention basin. He added that the property owner is in support of a fence or physical barrier to the retention basin. The Board discussed what type of fence should be required around the retention area. Buddy Shelton explained the NC building code for pool barriers. Mr. Anlauf said a pool fence standard seems appropriate.

Michael Barr asked that front yard setbacks for lots 10, 14 and 21 be noted on the plat to indicate distance to the front property line. Mr. Barr additionally asked if the right-of-way for lot 5 is improved. Ms. Creef said it will have to be improved with gravel at the time they get a building permit.

Buddy Shelton made a motion to recommend approval of the preliminary plat subject to the following conditions:

1. The plat approval becomes valid on the date the NC stormwater management permit is approved for the property. The twelve month preliminary plat approval will start on that date. If any changes in the layout of the division are made as a result of the NC review of the stormwater plan, then additional review by the Planning Board shall be required.

2. A fence/barrier shall be provided around the wet area of the retention basin in the common area. The pool barrier guidelines from the NC building code relative to height and materials shall be followed in the construction of this fence. The fence shall be installed as part of the division's infrastructure and completed before final approval can be granted.
3. The plat shall be revised to indicate the distance to the front property line to the building setback line on lots 10, 14 and 21. A note shall also be included on the final plat and in the homeowners documents indicating the front yard setbacks in these three lots shall be as depicted on the final plat.
4. Comments from the Fire Marshal dated November 9, 2020 shall be addressed with either the installation of a hydrant for the structure on lot 5 or the installation of a residential sprinkler for the structure.
5. The 20 foot easement used for access to lot 5 shall be improved at the time Dare County construction permits for lot 5 are secured.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

Conditional Use Permit Application for a Cluster Home Development, Waves Retreat, 25478 and 25486 NC Hwy 12, Waves, NC

Michael W. Strader, Jr., P.E., of Quible & Associates, P.C., was present at the meeting.

Donna Creef addressed the Board. Ms. Creef said this is a conditional use permit application and site plan for a proposed cluster home development. The property is zoned S-1 and currently consists of two parcels that will be combined for the cluster home development.

Ms. Creef noted there is an existing house on the site. Section 22-31.1 establishes a maximum size limitation of 1200 square feet for any structure constructed in a cluster home development. This house is listed as 1,330 square feet on the tax record. Ms. Creef recommends conditions included in the draft CUP that preclude additions to the structure and compliance with the size limitation should the structure be demolished.

Ms. Creef said a revised site plan indicating all structures be separated by 15 feet be submitted.

Ms. Creef said there is an existing driveway that accesses the site which is proposed to be widened to 20 feet and improved with gravel. Comments from the Fire Marshal

indicate the proposed gravel driveway should be able to support 75,000 pounds. The project engineer will need to certify that the road improvements and other comments received from the Fire Marshal have been constructed as proposed and approved.

The wetlands on the site have been flagged and verification for the Corps of Engineers is pending.

Ms. Creef said Staff received an emailed comment from the adjoining property owner to the south. Mr. Munson is requesting a visual buffer. The S-1 district requires a visual buffer between residential and commercial uses.

Ms. Creef noted section 22-31.1 states that any structure in a cluster home development shall be occupied on a long-term basis as defined in the Zoning Ordinance. Long-term is defined as a period longer than 31 days. This information should be noted on the site plan and in any homeowners documents created for the property.

Ms. Creef said the site plan indicates a parcel to the north as part of the NC 12 Retreat LLC ownership; however the tax records list the property as "unknown owner, conflict." The site plan should be corrected to note the ownership as listed on the tax records. Any measurements for lot coverage should not indicate the area of this conflicted parcel.

Ms. Creef suggested Page 3, note 15 be revised to indicate approval from the State of North Carolina and Dare County. Note 6, on Page 2 should indicate that all new structures shall conform to the Dare County Flood Damage Prevention Ordinance including a local elevation standard of eight feet.

Ms. Creef said public comments have been received regarding a cemetery on an adjoining property. The Board was provided an aerial survey of the area at their seats. The survey shows the cemetery as 56 feet from the subject property that will be developed. The cemetery is not on the site plan that is being considered. The cemetery is on the adjoining property.

Beth Midgett asked if there is anything on the site plan that interferes with the cemetery. Ms. Creef reaffirmed there is nothing on the site plan that interferes with the cemetery. The cemetery is on adjacent property and the plat of record for the adjacent property clearly depicts the access road back behind the existing commercial structure on that property. There is no access easement on record that Staff found for the deed for Hwy

12 Retreat, LLC, which is the property under consideration. Access to the cemetery should be occurring from the commercial property where the cemetery is located.

The Board discussed the Fire Marshals comments. Donna Creef asked Mr. Strader if a fire hydrant will be installed as noted in the Fire Marshals comments. Mr. Strader replied that a fire hydrant will be installed.

Terry Gore made a motion to recommend approval of the conditional use permit application subject to the following:

1. The site plan shall be revised to indicate the 15 feet of separation between structures.
2. Note 15 on page 3 should be revised to read...removed, relocated, modified or altered without prior approval by the State of North Carolina and Dare County.
3. Access roads shall be constructed consistent with NC fire codes and a fire hydrant shall be installed as noted by the Fire Marshal in his November 6, 2020 comments. No construction of structures shall occur before the hydrant is installed.
4. A note shall be included on the site plan to indicate there is no sound access on adjoining properties.
5. A note shall be included on the site plan indicating the structures shall be limited to long-term occupancy. A condition is included in the Conditional Use Permit and the same language can be used on the site plan.

Buddy Shelton seconded the motion.

Vote: Ayes – Unanimous

This item will be submitted for review by the Board of Commissioners at their December 7, 2020 regular meeting. The Conditional Use Permit will be reviewed according to quasi-judicial procedures and the applicant must be in attendance to acknowledge and accept the conditions of approval.

Proposed Amendment to Conditional Use Permit, Rodanthe Sunset Group Development, Phase 2, 24280 NC 12, Rodanthe, NC

Michael W. Robinson, P.E., P.L.S., was present at the meeting.

Donna Creef read her Staff comments. The owners/developers of Rodanthe Sunset Resort submitted a revised site plan and conditional use permit amendment for the site located at 24280 NC 12 in Rodanthe. A CUP for this site was originally approved in

2008. This CUP has expired. The request submitted seeks to eliminate two commercial structures and construct all residential structures. Staff processed this request as a new conditional use permit versus an amendment due to the expiration and switch to entirely residential structures.

Ms. Creef said with the elimination of the commercial structures, the allowable lot coverage reverts to 30 percent for residential developments. The overall number of units in the second multifamily structure remains at eight units. Two single-family residential structures with ten bedrooms each are proposed. The overall number of structures proposed does not vary from the total approved in 2008, just the nature of the occupancy.

A division of the site plan into three lots was approved in 2016. The site plan appears to keep the wastewater improvements as a separate lot. Ms. Creef recommends all of the parcels be combined into one large tract.

Ms. Creef noted setbacks on the site plan are for commercial structures. With the elimination of the commercial structures, the setbacks revert to residential setbacks. The group housing setbacks supersede the S-1 residential setbacks.

Ms. Creef recommended a timetable of three years to secure the permits for all three structures unless the developer requests a longer timeframe. Ms. Creef recommended no longer than five years. Mr. Robinson said the owner plans to begin construction mid-2021 on one of the houses. They expect the first house to be completed early 2022 to be followed immediately by the second single-family house. The condo will be built after the completion of the second house. Mr. Robinson said five years is a reasonable request.

The Board indicated consensus with the five year timetable.

Ms. Creef told the Board that no public comment was received for this project.

The Board discussed comments from the Fire Marshal. The Fire Marshal noted a water flow test is needed.

David Hines made a motion to recommend approval of the conditional use permit application subject to the following:

1. The item will be forwarded to the Board of Commissioners once the water flow test has been satisfactorily completed and approval from the Fire Marshal secured.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

OTHER BUSINESS

Discussion of Camping Cabin Regulations Referred by Board of Commissioners

Donna Creef said the Dare County Board of Commissioners adopted revisions to the Dare County Travel Trailer Park and Campground Ordinance (TTPCO). These revisions were adopted as recommended by the Planning Board, which included a 50 percent RV to 50 percent cabin development standard for any park that includes camping cabins. The motion to adopt the revisions also included instructions to bring additional regulations to the Board for camping cabins at different ratios and review of our ordinances to ensure consistency among the TTPCO and other regulations especially group development regulations. Ms. Creef additionally noted at the Commissioners public hearing, the idea of a 30/70 split (30 percent RVs / 70 percent cabins) was offered by a speaker at the hearing. The option of having no limit on camping cabins was also discussed by the Board of Commissioners.

The Planning Board will address the Travel Trailer Park and Campground Ordinance at the December 14, 2020 meeting.

Approval of the 2021 Planning Board Meeting Dates and Submission Dates Calendar

Michael Barr made a motion to accept the 2021 Planning Board Meeting and Submission Dates Calendar as presented by Staff. Terry Gore seconded the motion.

Vote: Ayes – Unanimous

ADJOURNMENT

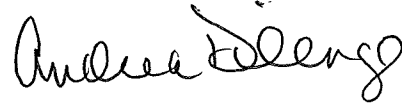
There being no further business before the Dare County Planning Board, a motion to adjourn was made by Terry Gore and seconded by Buddy Shelton.

Vote: Ayes – Unanimous

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The meeting adjourned at 8:20 p.m.

Respectfully Submitted,



Andrea DiLenge
Planning Board Clerk

APPROVED: December 14, 2020



John Finelli
Chairman, Dare County Planning Board