

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, March 14, 2022. 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 6:02 pm

MEMBERS PRESENT John Finelli, Chairman
Terry Gore II David Hines
Buddy Shelton John DeBoy

MEMBERS ABSENT Beth Midgett David Overton

APPROVAL OF MINUTES

There being no corrections or additions to the minutes of the February 14, 2022 meeting of the Dare County Planning Board, Terry Gore made a motion to approve the minutes as submitted. Buddy Shelton seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

Comments from Megan Elder regarding Housing were emailed to the Planning Board. A copy is on file with the Planning Board Clerk.

Michelle Pharr, of Kill Devil Hills, a grade three Biological Operator licensed in North Carolina and backup O.R.C. in charge of the Kinnakeet Shores Wastewater Treatment Facility. Ms. Pharr said the amendment to Special Use Permit 1-2014 cannot be approved as areas of section 16 are already permitted for the Kinnakeet Wastewater Spray Irrigation System and therefore prohibits the installation of any alternative system. State Permit No. WQ0002284 was provided as part of a handout Ms. Pharr provided the Board at their seats.

David Pharr, of Kill Devil Hills, O.R.C. Operator in Charge of the Kinnakeet Shores Wastewater Facility. Mr. Pharr voiced concern about the preliminary plan design, setbacks, and environmental health for the proposed system. He also asked who would own, maintain, and pay for the new system.

Pat Weston, resident and HOA President, Kinnakeet Shores, is concerned about the impact of the proposed system on the common area known as Pony Pasture. Ms. Weston said covenants do not allow septic systems on the sound side phases 6-22.

She additionally voiced concern about unsightly equipment, setbacks, value of the lots, who will maintain and pay for the new system, and how drain fields will impact the lake. She is also concerned the requestor of this amendment is not the signer of the original permit.

Rick Bartow, resident, Kinnakeet Shores, expressed concern about the impact of downgrading from six bedroom to four bedroom homes. Mr. Bartow is also concerned about drain culverts and flooding issues from Pony Pasture. Mr. Bartow thinks more time should be given to see if a sale can be orchestrated of the plant, and the moratorium lifted.

Todd Brownell, resident, Kinnakeet Shores, is concerned about the aesthetic issues of the proposed system as these are small lots. He doesn't want extra infrastructure on his lot and would prefer grass and trees. He is also concerned about drain fields and who will maintain the proposed system. Mr. Brownell said the proposed system does not suit property owners and suits builders. He is also concerned about the lake.

David Johnston, resident, Kinnakeet Shores, addressed the Board. He wants the plant brought up to code and doesn't want the new system proposed by OBX Islands Development, LLC. He voiced concern over proposed drain fields on both sides of his driveway and doesn't want to see a pump station. He wants to know who will operate and pay for the new proposed system. He stated he already pays for the existing gravity system.

Katherine Fagan, of Manteo, addressed the Board regarding the Old North End, 56-lot subdivision, near Airport Road. She voiced concern over the lack of notice of the project, traffic additions to Airport Road, environmental impact, too many people in too small of a space, and flooding issues. Ms. Fagan requested a special forum be setup to address the concerns of this project.

Public comment closed at 6:30 pm

OLD BUSINESS

-None-

NEW BUSINESS

Special Use Permit Application No. 1-2022 for Cluster Home Development, Sea Glass Cottages, 27242 Sand Street, Salvo, NC

Gary Lake, Applicant, was present at the meeting.

Noah Gillam, Planning Director, addressed the Board. He said Sea Glass Cottages, LLC, submitted a Special Use Permit (SUP) application for a cluster home development located in Salvo, NC. The property is zoned S-1 and cluster homes are permitted as a special use. Mr. Gillam explained the applicant is proposing to construct seven (7), 900 square foot or less, two bedroom dwellings, and relocate an existing dwelling on the property that will be incorporated in the cluster home development. The proposed site plan shows the dwellings being separated by the 15 foot minimum requirement and each dwelling having one paved and one gravel parking space. Mr. Gillam told the Board that the proposed cluster home development will be accessed directly from Sand St. (S.R. 1532). Driveway permits or approvals will need to be obtained from NCDOT and provided to Staff before construction activities can occur.

Additionally, the site plan has been reviewed by the Fire Marshal and the applicant has agreed to install residential sprinkler systems in each of the dwellings to meet requirements of the Fire Code.

Section 22-31.1 states 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. Mr. Gillam stated this information should be noted on the site plan and in any homeowners' documents.

A copy of the site plan and draft SUP were provided to the Board for their review.

Chairman Finelli noted that condition one should state less than 31 days; not 30 days as listed in the draft SUP.

The Planning Board reviewed the draft SUP and deemed the conditions and site plan to be reasonable and appropriate.

This item will be forwarded to the Dare County Board of Commissioners for their consideration.

Amendment to Special Use Permit No. 1-2014 for Kinnakeet Shores Phase 16 to allow for the Installation of Community Sewage System, Parcel No. 014822269, OBX Islands Development, LLC, Avon, NC

Rick House, House Engineering, P.C., was present at the meeting.

Mr. Gillam said an application to amend Special Use Permit (SUP) No. 1-2014 has been submitted by OBX Islands Development, LLC. Mr. Gillam explained SUP 1-2014 was

issued to Kinnakeet Shores Phase 16, LLC, on May 5, 2014 and authorized the development of a group housing project consisting of fifty-one (51) residential structures/building envelopes with the remainder of the property being dedicated as limited common area. A condition of the SUP requires the 51 buildings to be connected to the existing privately-owned wastewater treatment plant that serves the other existing phases of the Kinnakeet Shores Soundside Development. Mr. Gillam said the applicant seeks to amend this condition to allow the remaining undeveloped building envelopes to connect to a new proposed wastewater treatment system that will service the Phase 16 community.

Mr. Gillam further explained that OBX Islands Development, LLC, is seeking the proposed amendment to the SUP in response to a moratorium that has been placed on the existing privately-owned and operated Kinnakeet Shores wastewater treatment plant. The moratorium was issued to the owners of the wastewater plant, Outer Banks Kinnakeet Associates (OBKA) by the State of North Carolina on October 13, 2021. The State indicated that OBKA wastewater treatment plant is unable to adequately collect and treat waste and that major treatment units are no longer functional.

The wastewater moratorium states that no new sewer taps, sewer extensions or additional flow to the plant will be allowed till the plant can demonstrate the proper repairs have been made and can meet all conditions of State Wastewater Permit WQ0023934. Mr. Gillam noted that since the moratorium, little to no effort has been made by OBKA to repair the wastewater treatment plant. With the moratorium in place, no new development can occur in phase 16 of the Kinnakeet Shores subdivision.

Mr. House addressed the Board. He spoke about the history and current state of the wastewater plant and current moratorium. Mr. House also briefly explained the proposed new system.

Mr. Gillam reminded the Board that the proposed new system is not what is being reviewed by the Board at this meeting. The review is for an amendment to Special Use Permit No. 1-2014 to allow for a connection to an alternative system.

The Planning Board reviewed the draft SUP and deemed the conditions to be reasonable and appropriate.

This item will be forwarded to the Dare County Board of Commissioners for their consideration.

OTHER BUSINESS

Continued Discussion of Zoning Amendments for Accessory Dwelling Units – Referral from Board of Commissioners

Mr. Gillam read his staff comments. He said at the February 14, 2022 Planning Board meeting, the Board discussed a number of conditions that were reviewed by Staff for the R-1 District, including increased lot size requirements, a decrease in the allowable lot coverage, roadway access requirements, and procedures for administration of regulations to document the absence of restrictive covenants that may conflict with zoning regulations. The Board agreed to keep lot coverage and lot size requirements in the R-1 consistent with the existing Accessory Dwelling Units (ADUs) language that was adopted in 2018. In the discussion, the Board agreed to add standards for ADU in R-1 requiring them to be accessed from State maintained roads, private roads, publicly dedicated roads, and/or a 20' easement.

Mr. Gillam further explained that a draft condition was proposed for ADUs in the R-1 that would require a property owner with a parcel in a subdivision, planning to construct an ADU, to provide documentation from an attorney outlining title research and stating a conclusion whether or not a covenant applied to the property that would prohibit construction of an ADU. The Planning Board tabled the discussion and directed staff to get the County Attorneys interpretation of the proposed language and whether or not it should be included in the proposed amendment.

Mr. Gillam stated that Staff met with County Attorney, Bobby Outten. He indicated it is not the responsibility of the County to interpret or enforce homeowners' association (HOA) restrictive covenants, and that the language should be omitted and the burden of enforcement is the responsibility of the HOA.

The Board also discussed draft amendment 9-C and if it is legal to require the owner of the property and/or family member to occupy either the primary residence or accessory dwelling unit.

Terry Gore made a motion to recommend striking draft amendment 9-C from the East Lake Natural Historic (ELNH) Zoning District and a finding of consistency with the policies of the 2009 Dare County Land Use Plan. David Hines 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 Chairman Finelli.

Vote: Ayes – Unanimous

The meeting adjourned at 7:34 p.m.

Respectfully Submitted,



Andrea DiLenge
Planning Board Clerk

APPROVED: April 11, 2022



John Finelli
Chairman, Dare County Planning Board