



Dare County Planning Board Meeting

**Dare County Board of Commissioners Meeting Room
954 Marshall C. Collins Drive
Manteo, NC 27954**

May 2, 2023

Agenda

- I. Call to order **6:00 PM**
- II. Roll call
John Finelli, Chairman
Beth Midgett
David Overton
Terry Gore II
Buddy Shelton
David Hines
John DeBoy
- III. Approval of minutes for the April 4, 2023 meeting
- IV. Public Comment
- V. Old Business
 - a. Continued discussion on revisions to the Cluster Home Ordinance Section 22-31.1
- VI. New Business
 - a. Special Use Permit Application No. 4-2023 for a Cluster Home Group Development at 0 Shipyard Road, Manns Harbor, NC (Parcel No.023939003)
Applicant: Anchor Commercial, LLC
- VII. Other Business
- VIII. Adjournment

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Tuesday, April 4, 2023. 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
Buddy Shelton Beth Midgett
David Overton David Hines
Terry Gore II John DeBoy

MEMBERS ABSENT None

APPROVAL OF MINUTES

Chairman Finelli stated that the date on pages two and three of the minutes were inaccurate and it had been updated to show the correct date. There being no other corrections or additions to the minutes of the March 7, 2023 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

At 6:05 Chairman Finelli outlined the procedure for making Public Comments. He announced that the Planning Board will not be reviewing nor discussing the Cluster Home Project that has been sent to the Board of Commissioners, they are here to discuss the Cluster Home Ordinance.

Craig Parker

- Feels that everything the people are saying is falling on deaf ears.
- Asked if there was a moratorium that could limit how much fill they can put on lots.
- Stated that Dare Challenge has 4 to 5 feet of fill, but there are no neighbors around to flood.
- Stated that the main concern that keeps getting swept to the side are the children.
- Explained that the engineer from House Engineering could not find the fire hydrants on the site plan for the Wanchese Cluster Home Project.
- Does not want cluster homes to go all through Wanchese.

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- Discussed Safe Harbor and how they have already sent letters to owners of the fish houses and how they are known to ruin fishing communities.
- Stated that Dare County is founded on commercial fishing, and how much money comes into the county because of it.
- Discussed the Board of Commissioners and the dredge, Miss Katie.
- Stated that there needs to be standards on cluster home projects to make it appealing to families and younger individuals.

Mitchell Bateman

- Stated that he had sent emails to the Commissioners, Planning Board and Planning Staff seeking information.
- Asked if the Community of Wanchese has the same authority to remove the Cluster Home Ordinance that the Commissioners had in 2018 and 2019 to put the Cluster Home Ordinance in place.
- Explained that there is a process to be used, and there needs to be a recommendation from the Planning Board to begin the process.
- Stated that Wanchese was encouraged to write its own zoning and asked the Planning Board to consider putting the Wanchese Zoning back to the way it was.
- Asked the Planning Board to ride through Wanchese during daylight to see all of the signs.

Allison Beacham

- Feels that an ordinance got put into place and that many people were not made aware of.
- Expressed that it is not one person's fault, and that it is everyone's fault.
- Asked the Planning Board to revise the Ordinance of Wanchese, and see what can be done to improve Wanchese.
- Feels that there are a few things that have to be done before an influx of people move to Wanchese. Which include the following: street lights, lower speed limits, sidewalks, removal of vegetation that creates blind spots in the roadways.
- Stated that we need to do what is best for the future of our children.

Laurie Tilliett

- Stated that she realizes that the current Planning Board are not the people that put the Cluster Home Ordinance in place but they can be the ones who fix it.
- Stated that the community did not know this was happening when it happened and can not believe someone would put cluster homes in Dare County.
- Stated that cluster homes are not right for our county, nor the future children.

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Mike Burrus

- Born and raised in Wanchese and loves it for the way it is.
- Stated that there are a lot of great families in Dare County and wants to see that continue.
- Feels that the Cluster Home Ordinance is not a benefit to the people of Dare County.
- Stated that anytime we make arrangements to let a project be built to a lower standard than what the building code requires, it is not a benefit to anyone and it will be a lesser product.
- Feels that there needs to be a complete repeal of the cluster home ordinance.
- He concluded by stating that he does not like the direction that Dare County is currently heading.

Sybil Ross

- Stated that she was employed by the Albemarle Pamlico Estuary Study.
- Explained that there were millions of dollars that went into this study that benefited the whole coast.
- Stated that the GIS system that Dare County uses today came from the Albemarle Pamlico Estuary Study.
- Explained that her father was a previous Mayor of Manteo and was the only one that ever got affordable housing in Dare County, which is located behind Food-A-Rama.
- Acknowledged that the Board of Commissioners and the Planning Board have a hard job.
- Explained that she is the accountant at Harris Teeter and how they do not have enough employees.
- Feels that there is a way to move forward which involves looking back at the Coastal Management Act.
- Feels that a vision needs to be created of who and what we want to be in 20 or 30 years from now. There needs to be a plan from the floor up and the science needs to be used.
- Expressed that 20 years in geological time is not a long time.

Joseph T. Willis

- Stated that he was born in Edenton, but grew up in Wanchese.
- Explained that he holds 17 unique international co-council certifications and he was a past President of the Virginia Chapter of International Electrical Building Inspectors, where he still sits as a Board Member.
- Expressed that he has dedicated the majority of his professional career to safety.

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- Discussed Section 152.20 of the Dare County Ordinance.
- Stated that the 2018 Statewide Fire Prevention Code was adopted by the NC Building Code.
- Explained fire access roads and gave the exact definition.
- Discussed the Cluster Home project in Wanchese and that the pipe stems that come off these homes are dead end cul-de-sacs and all of them are an excess of 250 feet. He explained that the NC Fire Code says that if you have a pipe-stem or dead end road with an excess of 150 ft you must have an approved turn around for emergency vehicle apparatus.
- Stated that he does not envy Steve Kovacs, the Dare County Fire Marshall.
- Explained that 503.2 of the NC Fire Code states that the required turning radius of an emergency vehicle apparatus shall be determined by the fire official.
- He compared Steve Kovacs comments from the Murray Bay Subdivision from the Planning Board Meeting held on 1/30/23, to his comments on the Wanchese Cluster Home project. He feels that Steve Kovacs requirements are not consistent between the two.
- He concluded by stating that no one listened to him before about this issue, and he is going to take it to Raleigh and go before the Building Code Council and have them rule on the Wanchese Cluster Home project.

Angel Corey

- Stated that there are people that have been putting pressure on this island for 20 years and gave multiple examples.
- Does not want Roanoke Island to become as crowded and developed as the beach.
- Expressed that Article IV. Planned Unit Development was deleted in September of 1994.
- Asked the Planning Board to remove the Cluster Home Ordinance and allow the quality of life that they have in their community remain.

Lorraine Tillett

- Expressed how thankful she was that the Planning Board was reviewing the Cluster Home Ordinance.
- Stated that the community does not want cluster housing at all, and that they want their community to be developed the way they want it.
- Explained that she was approached by the Board of Commissioners in 2004 to help zone Wanchese.
- In her opinion, she believes that everyone in the community could have been contacted to assist with the Wanchese zoning.

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- Stated that a county official informed her that the R-1 District was considered with the Cluster Home Ordinance but it would not be successful because there are so many subdivisions, but expressed that she disagrees.
- Wants the Cluster Home Ordinance to be removed from all of Wanchese and Roanoke Island.

Sandra Barile

- Asked the Planning Board to consider removing the Cluster Home Ordinance all together.
- Also asked the Board to review the notification system that is used on zoning changes, that a small notification in the Coastland Times is not enough. She recommended that they consider attaching a notice to tax or water bills.

Ralph Barile

- Feels that when the Cluster Home Ordinance was first proposed, no one realized what was going to happen.
- Quoted a previous statement which stated that “Cluster Homes are Single Family Dwellings and there are no conflicts putting them in single family districts.” Although he disagreed with this statement.
- Asked the Planning Board what are their recommendations to the Board of Commissioners for removing the Cluster Home Ordinance out of Single Family Residential Districts.

Nancy Silver

- Discussed all of the studies on the marsh and how she was involved.
- She wants everyone to recognize what was recommended in the past and what all is happening now.
- Feels that Dare County should follow the Land Use Plan.
- Explained the Nature Deficit Disorder that she feels is affecting children.
- Expressed the importance of nature, trees, and water within neighborhoods.
- Would like to see the Cluster Home Ordinance removed out of the zoning for Wanchese.

Rex Mann

- In agreement with Nancy Silver about the children having a lack of time outdoors.
- Stated that there were roughly 3,000 residents in Wanchese and there were only 60 newspapers delivered that advertised the zoning change in 2019.
- Expressed that he left the Board of Commissioners Meeting very disappointed, and he felt like the questions that were asked were staged.

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- Stated that Dare County is the goose that laid the golden egg that is motivated by greed.
- Expressed that \$300,000 for a two bedroom home where you do not own the property is not feasible for most people that are in the workforce of Dare County.
- Feels that they are in the cluster home situation because they were not aware of what was happening.
- Discussed the over development and how Dogwood Hills neighborhood flooded due to the 20 inches of rain that fell in 2018. This led Dare County to consider their first engineered stormwater management project, which cost Dare County a large amount of money.
- Asked where the water in Wanchese is going to go and that Dare County will have to pay to get all the water pumped.
- Stated that Dare County needs to stop spending the citizens tax dollars without listening to public comments.

Michelle Lewis

- Received two Master Degrees from Yale University, runs a non-profit called the Peace Garden, and is a Pastor at a church in Manteo.
- Stated that despite all of the wealth in Dare County there are justice issues and a lot of need in the communities. She stated that most people do not make enough money to live.
- Discussed the infrastructure of Dare County and the lack of police and emergency services.
- Sits on the Town of Mateo Community Police Advisory Board and stated that they are short staffed and need two more officers.
- Talked about the influx of individuals that have come into our communities and how Dare County Schools is already overpopulated and at capacity, the roads can not withstand the traffic that is already here, and our police are already overworked.
- Stated that if the county cares about the public servants like they often say they do they will take a better look at how housing developments are constructed.
- Expressed that it is a tragedy that people live in the trailers behind the Elizabethan Inn that The Board of Education owns.
- Talked about Long Term Water Quality Assessments and how the more that we continue to build the more water quality around the establishments will change. She referenced how Chairman Woodard asked the developer if their equipment would damage the water aquaphor. She then explained that things that can cause depletion or damage to water aquifers are stressors like changes in precipitation and snowmelt patterns, withdrawal of groundwater for drinking and

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irrigation, and impervious paved surfaces that prevent precipitation from recharging the groundwater.

- Stated that as the water is getting sucked out we can not replenish it at a rate that is fast enough to sustain the population growth and density that is discussed with all of the developments that are proposed.
- Explained that healthy environments are not just about access to nature but ensuring that smart building is taking place that represents the people of the community.

Lynn Davis

- Began by quoting Noah, Planning Director, that he previously said that they were going to police the Cluster Home Development the best that they could.
- He then asked the Planning Board who is going to police the Cluster Home Development.
- Asked what is going to prevent these homes from ending up on VRBO like the other houses that were titled workforce/affordable housing in Hatteras.
- Owns three properties on Brinkley Dr. and will not build homes for his son on them because of surrounding properties that are not maintained.
- Stated that he hopes the Planning Board considers everything that is going on.

Amy Philips

- Moved here in 2009 and had to move away once husband became ill.
- She moved back years later and sometimes questions her decision because of the overbuilding and too much traffic.
- Understands that there are a lot of people who have owned property for many years who now want to sell it and make a profit.
- Expressed how much she loves Wanchese and the way of life that they try to hold on to.
- Stated that if she had the money and the energy she would fight it as hard as possible because it is wrong for the Wanchese Community.

Mindy Ralph

- Stated that she is in favor of removing the cluster home ordinance out of Dare County.
- Understands that development is inevitable, but wants it to be done the right way.
- Explained how she and her husband own a dumpster company that makes money off of people constructing homes nonstop, but they construct these homes in the right manner.
- Feels that no one wants to have 60 homes built beside them.

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Kendall Austin

- Agreed with all previous speakers that are against the Cluster Home Project.
- Asked the Planning Board to remove the cluster home ordinance and did they want to ruin the county for money.
- Stated that if building continues on this island it will be ruined for everyone.
- Expressed that she is not disagreeing with growth, but wants it to be done correctly and that Brad Alexander should do a subdivision with 15,000 square foot lots so children can have a place to play and emergency vehicles can get down the roads safely.

Lilly Button Daniels

- Stated that she had her turn and worked very hard and diligently on what the citizens wanted from Wanchese.
- She was very excited to see how many people were in attendance at this meeting and how they were stepping up to the plate.
- Explained that she wants the Planning Board to help Wanchese get out of the situation they are in.
- Stated that she has an issue with the notification process when a zoning change is happening and feels that it could be improved.

Laura Mann

- Stated that she feels that the housing crisis has developed due to AirB&B rentals and it has taken away housing from many local residents.
- Explained how her daughter has to move back home because she can not afford a place to live.
- Asked the Planning Board to consider regulating AirB&B's which will help with the housing crisis versus building cluster homes.

Craig Parker

- Asked the Planning Board if there could be a stipulation on cluster homes to prevent them from being able to be sub-leased.

Belinda Fulton

- Expressed that the cluster home zoning ordinance should be removed.
- Feels that despite Brad Alexander's comments someone will rent the cluster home for a year and in the meantime they are going to try to find their forever home.

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- Stated that this will end up in a large number of transient people which is not good for the community.

Chris Carrey

- Stated that when something is more than the sum of its parts or greater than the sum of its parts, you mean that it is better than you would expect from the individual parts because of the way they combine at a different quality.
- Explained that he imagined that the Cluster Home Ordinance was written in terms of units, and explained it as having multiple units and lots and expanding it out larger than their individual parts.
- Discussed the Board of Commissioners Meeting and that certain guidelines got brought up and the Civil Engineer would do less or more depending on the situation, which means to him that the guidelines need to be adjusted.
- Feels that the Cluster Home Ordinance does not scale.
- Discussed the lost internet connection in southern Outer Banks and explained the reasoning behind it being that there is a single threaded tube of fiber running through the Wildlife Refuge and National Park. There is only one way in and one way out. He stated that Wanchese is similar by only having one way in and one way out, whereas Manteo and the beach have auxiliary exits.

Public Comment Closed at 7:17

OLD BUSINESS

-None-

NEW BUSINESS

Preliminary discussion on potential revisions to Section 22-31.1 Cluster Home Ordinance

Noah Gillam, Planning Director addressed the Planning Board. His comments are stated below:

Last month the Dare County Board of Commissioners at their March 6 meeting requested that the Planning Board revisit the Cluster Home Ordinance for possible revisions. The request is in response to citizen comments that have been received by the Board of Commissioners, Planning Board, and Planning Staff over the proposed cluster home development on Old Wharf Road in Wanchese. It shall be noted that if any revisions are adopted, these amendments would not affect the cluster home

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development that has been proposed on Old Wharf Road. Any amendments adopted would only affect future developments.

In 2018/2019 the Dare County Board of Commissioners adopted a series of amendments that would increase the number of year-round housing options in Unincorporated Dare County to help combat the housing crisis. As a result of these amendments the Cluster Home Ordinance was adopted and allowed for cluster home developments as special uses in 34 zoning districts. The Cluster Home Ordinance allows for the construction of more than one single family dwelling on an individual parcel. The regulations that were adopted were based on the existing group development standards but with reduced property setbacks, and reduced separation of dwellings. Since the adoption of the Cluster Home Ordinance, five cluster home developments have been approved in Unincorporated Dare County.

Based on the public comments received staff has created a list of possible revisions to the Cluster Home Ordinance for the Planning Boards discussion. Other revisions can be added as part of the board's discussion.

1. Increased setbacks and separation of dwellings
2. Increased Right-of-Way widths
3. Open space requirement that is free of improvements including wastewater systems and stormwater infrastructure
4. Incremental density limitation dependent on parcel size
5. Removal from zoning districts
6. No changes

The findings of the Planning Board will be presented to the Board of Commissioners before proposed amendments are drafted, and the text amendment process begins.

Chairman Finelli began the discussion by stating that he wanted to set aside Wanchese and any other possible districts that they feel this ordinance should be removed from. He explained that he wanted them to focus on just the ordinance as it would apply to any district it would be in. Chairman Finelli also expressed that the ordinance has had some positive impacts on workforce housing and prefers not to just throw it out completely.

Mr. Gillam made a comment in reference to a statement made by Mr. Davis during the Board of Commissioners Meeting about rentals in southern Outer Banks that have been turned into VRBO's. Mr. Gillam expressed that those homes were not constructed as a

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cluster home project, that they were a group development that was done years prior to the Cluster Home Ordinance being adopted.

Terry Gore inquired what the minimum lot size is for a residential dwelling in the VR District and what the maximum size for an accessory dwelling unit is in the VR District. Mr. Gillam responded by stating that the minimum lot size is 15,000 square feet and the maximum size for an accessory dwelling unit is 900 square feet. Mr. Gore explained that doing away with the Cluster Home Ordinance would not change the density issue in that area and that things get extremely complicated in these situations.

Mr. Gore then addressed a couple of items which are listed below:

- He explained that the Planning Board is open to criticism on the fact that the way zoning changes are advertised are antiquated and will listen to any ideas anyone has to improve this process.
- Personally wants to remove the Cluster Home Ordinance from the VR District.
- Stated that as they go through this discussion he wants to take a look at potential scalable density in the areas where the Cluster Home Ordinance will remain.
- Expressed that he wants the Board to look at what can be done with density on properties in general because as long as there are loopholes people will find them.

David Hines stated that he believes the Cluster Home Project is over-developed but moving forward they have to be careful because you do not want to eliminate having multiple homes on one individual parcel. The intention is to help the community but prevent something like the proposed cluster home project from happening again.

John DeBoy began by expressing that no one can deny the passion from the Wanchese Community. He explained that he does not want to completely remove the ordinance but believes there is room for revision and with smart minds there can be a solution that works for everyone.

Buddy Shleton acknowledged everyone's statements and feelings and expressed that he agrees with the majority of them. Stated that nobody wants to live next to a cluster home development but if something does not change everyone will. He feels that there are other ways to solve the housing issue in Dare County rather than cluster home housing. Mr. Shelton then stated that they can limit things by size, requiring a playground, or having larger roads, but the same thing can still happen again. He feels that the Planning Board needs to think hard on this topic or remove the ordinance all together.

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Beth Midgett stated that she was on the Planning Board when Wanchese zoned itself, and it was very impressive how a community came together and overcame a challenge. She expressed that the intention of the cluster home ordinance was to help people and if it is not helping people then it needs to be discussed.

Mr. Gillam stated that discussions need to be held and the revisions need to be looked at to see what could be removed or changed. He also wanted the Board to think about how this would change other zoning districts because the Cluster Home Ordinance has worked successfully in other areas.

David Overton began by letting everyone know that he hears everyone and that he agrees with every single one of them. He discussed his connection to Dare County on a personal level and when he went away to college to study music he always felt like something was missing, and it was Dare County. He expressed that regardless of what the stats, restrictions, or setbacks say, it all comes down to the way of life for the Outer Banks of North Carolina. He stated that the Board may not have all of the answers right now, but they have to find the answers that are going to make this work for everybody and that development needs to be controlled.

Chairman Finelli agreed with Noah by saying that there are successful cluster home projects in other unincorporated areas of Dare County. He stated that there is something similar within the Town of Southern Shores in their RS-10 zoning district where they allow 10 homes per acre. Chairman Finelli then began to discuss one of the issues being the scalability and that it needs to be discussed.

Mr. Gillam began discussing four possible revisions that would scale back the potential for development on other parcels. They are listed below.

- Increased setbacks and separation of dwellings.
- Increased right-of-ways
- Open space requirements
- Incremental density limitations

Chairman Finelli acknowledged some of the public comments about open space that will allow children to have room to play. He inquired about there being a limitation to 30% of coverage and should that have already provided enough open space? Mr. Gillam responded by stating that just like many single family dwelling projects, the septic, repair areas, or other infrastructure can be on the remaining space. Having open

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space requirements will have areas of land where no infrastructure will be permitted on the open space areas.

David Hines asked Mr. Gillam what his recommendation is on the size of the open space requirements. Mr. Gillam responded by saying he feels like it would have to be measured on an acreage calculation. Mr. Hines also asked if there was a possibility of limiting the amount of houses on one septic system even if the state approves it. Mr. Gillam expressed that he has reached out to the UNC School of Government to get that answer, but doing his own research he does not believe that is an option.

Buddy Shelton asked if we increase setbacks, add open space requirements, and other limitations are we making it a Special Use Subdivision? Mr. Gillam replied by saying that Special Use Subdivisions are on smaller parcels.

Terry Gore stated that they have seen success with cluster homes on smaller parcels, and building smaller structures lowers the price.

David Overton inquired about the turn around areas for emergency vehicle apparatus and Mr. Gillam stated that they can set requirements that the turn around areas for emergency vehicle apparatus have to meet the NCDOT specifications.

Chairman Finelli stated that before any changes are made that they need to decide if they will affect every district that the cluster home ordinance is in, or just certain districts. Mr. Gillam stated that it could also be done in a staged approach.

Chairman Finelli explained that they may be able to make a recommendation that some districts have the cluster home ordinance removed and in certain districts we put in more conditions that restrict some of the development.

Mr. Gore announced that he wants the Planning Board to go ahead and make a recommendation to remove the cluster home ordinance from the VR Zoning District. Mr. Gillam responded by saying that if that is the route the Planning Board wants to take that it should not just be removed from the VR District but for all of the Districts in Wanchese that it is currently in. Buddy Shelton stated that if they are going to remove it from all of Wanchese they should remove it from all of the other districts throughout unincorporated Dare County. Mr. Shelton expressed that if you leave it in all of the Districts except Wanchese we will end up back in the same situation we are in now. Mr. Gillam explained that Manns Harbor is almost self-governing because they do not have a county water source. The first thing that gets looked at on a site plan in Manns Harbor

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is where the drafting source of water is located in case of a fire. Mr. Shelton said that a tank can be installed or there are ponds around that water could be drafted from. He also stated that there are a lot of larger parcels in Manns Harbor that are not developed, and if a cluster home project goes on one of those parcels the people of that community will not be very receptive to it.

Beth Midgett asked what will happen if we remove the cluster home ordinance from all of the districts and what will happen to the cluster homes that have already been constructed. Mr. Gillam responded by saying that non-conforming language would then come into play.

Buddy Shelton stated that Wanchese overwhelmingly does not want the cluster homes and he feels that none of the other villages want it either. He feels that the cluster home project in Wanchese will not be the last one if some changes are not made.

Terry Gore made a motion to remove the Cluster Home Ordinance from the seven Wanchese Zoning Districts.

Chairman Finelli asked to hold off on that motion.

Terry Gore suspended his motion for further discussion.

Chairman Finelli feels that they have good intentions but they have to respect the people's wishes of the community. He recommended making a list of the districts that the cluster home ordinance needed to be removed from at this time and then the Planning Board can go back and revisit it when they have a more clean mind.

Terry Gore asked Chairman Finelli what other districts he recommends to remove the cluster home ordinance from. Buddy Shelton responded that MH-A & MH-B are both residential districts with slight commercial use.

Chairman Finelli expressed that he would like to keep the Cluster Home Ordinance in the Hwy 345 District for possible workforce housing for the Coastal Institute.

David Hines stated that this issue will not be solved tonight and what they are doing is a big deal, and he personally needs more time to review some of the other options. He is fine with the Planning Board removing the ordinance now, but acknowledged the problem will not be solved right now.

Mr. Gillam made it clear that the text amendment process does not happen overnight, and that it takes anywhere from 60-90 days to complete. He also announced that if

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someone submits an Special Use Permit Application for a Cluster Home during this time it still has to be reviewed.

Beth Midgett stated that anything that happens tonight needs to be revisited no matter what because there has not been a whole lot of feedback from Hatteras Island. Mr. Gillam responded by saying that a Public Hearing will still take place where people can speak their opinions.

David Hines asked if undoing the 2019 Action would solve the problem, Mr. Gillam responded no because some of the 2018 Action included some of the Wanchese Districts.

Terry Gore expressed that he feels like they should take a deeper thought process on the cluster home ordinance but for the time being the individuals that have expressed their concerns need to leave with something.

Beth Midgett stated that areas that are already more dense and/or commercial could be looked at to consider open space and incremental density requirements if the Cluster Home Ordinance remained in the zoning district.

Terry Gore made a motion to make a recommendation to the Board of Commissioners to remove cluster home developments as a special use in the zoning districts: SP-2, SPC, BT, RB, HML, WVC, MC-1, MC-2, Hwy 345, VR, WR-1, MH-A, MH-B, as well as all other residential districts that do not allow multi-family residential developments. Seconded by David Hines.

Vote: Ayes - Unanimous

OTHER BUSINESS

-None-

ADJOURNMENT

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

Vote: Ayes – Unanimous

The meeting adjourned at 8:20 p.m.

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Respectfully Submitted,

Skyler Foley
Planning Board Clerk

APPROVED: May 2, 2023

John Finelli
Chairman, Dare County Planning Board

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County of Dare

P.O. Box 1000 | Manteo, North Carolina 27954 | 252.475.5000

April 25, 2023

MEMORANDUM

TO: DARE COUNTY PLANNING BOARD

FROM: Noah Gillam, Planning Director *NHG*

RE: Continued Discussion on revisions to the Section 22-31.1 Cluster Home Developments Ordinance

Last month the Dare County Planning Board reviewed a list of possible revisions to the Cluster Home Ordinance at the request of the Board of Commissioners. During the discussion of possible revisions, a motion was made to remove the Cluster Home Ordinance from districts that do not allow multi-family. The Planning Board determined during the discussion that the current Cluster Home Ordinance allowed for a level of density and scale in traditionally single family districts that was not consistent with the intent of these districts. Although cluster homes are single family dwellings the ability of developers to use engineered septic systems allows the density of these developments to be more reflective of the density that is allowed in districts that allow for multi-family development. The recommendation of the Planning Board for removing cluster homes from the single family districts has been forwarded to the Board of Commissioners.

At the close of the April Planning Board meeting the Board expressed that the discussion of other possible revisions to the ordinance should be discussed for the districts that would remain in Section 22-31.1. If the Board of Commissioners acts on the recommendation made by the Planning Board for the removal of cluster homes from the single family districts, it would result with cluster homes remaining in 12 districts that allow multi-family. The Board of Commissioners will be in a position to act on the proposed amendments to remove cluster homes from the single family districts at their June 5, 2023 meeting at the close of the public hearing.

Below is a list of the possible revisions that were reviewed at last month's meeting. The Planning Board can continue with exploring these revisions or take no action since the remaining 12 districts currently allow for higher density.

1. Increased setbacks and separation of dwellings
2. Increased Right-of-Way widths
3. Open space requirement that is free of improvements including wastewater systems and stormwater infrastructure
4. Incremental density limitation dependent on parcel size
5. No changes

The findings of the Planning Board will be presented to the Board of Commissioners before proposed amendments are drafted, and the text amendment process begins.



County of Dare

P.O. Box 1000 | Manteo, North Carolina 27954 | 252.475.5000

April 18, 2023

MEMORANDUM

TO: DARE COUNTY PLANNING BOARD

FROM: Noah Gillam, Planning Director 

RE: Special Use Permit Application 4-2023 Cluster Home Group Development for Anchor Commercial LLC

A special use permit application and a site plan for a cluster home group development has been submitted by Mike Nice of Anchor Commercial LLC. The property is located on Shipyard Rd in Manns Harbor and is currently identified as parcels 023939003 (parcel 1) and 023939002 (parcel 2) in the Dare County Tax Records. The property is zoned MH-B and cluster homes are permitted as a special use. The site plan references two other adjacent parcels that are owned by Anchor Commercial LLC but are not being used for the purpose of this development. Parcel 023939003 and 023939002 will need to be combined before issuance of building permits.

A cluster home development is defined in Section 22-2 of the Dare County Zoning Ordinance as a residential group development project consisting of more than one residential dwelling on one parcel of land whereby the dwellings are occupied on a long-term basis. Such developments are subject to review and approval according to the provisions of Section 22-31.1 of the Dare County Zoning Ordinance. Long-term occupancy is defined in the County Zoning ordinance as a residential dwelling that is occupied and used for residency and housekeeping purposes for a period of 31 days or more.

The proposed parcel area for the cluster home group development is 3.14 acres (137,152 sq.ft.). Section 22-31.1 allows for lot coverage of 30% of the total lot area and any dwelling constructed as part of the cluster home development shall not exceed 1,200 sq.ft. of heated/conditioned space. The applicant is proposing to construct 12 individual dwelling units on the 3.14 acres. The dwellings are proposed as 3-bedroom, 2 story frame on pilings with ground floor storage enclosures. The proposed site plans shows the dwellings being separated by 30 foot and 44 foot exceeding the ordinance 15 foot minimum requirement.

Section 22-31.1 requires that cluster home developments that cannot be properly be serviced by emergency or service vehicles from an existing abutting road or street, shall be made accessible to such vehicles from a 30ft right-of-way with 20 feet of paved improvements. The applicant is proposing to install a single centralized 20 foot paved road with a 30 foot right-of-way as depicted on the site plan to provide access to the dwellings, and development amenities. There is an existing easement that runs across parcel one that access an adjacent parcel, it is staff's recommendation that during the combination of the parcel 1 and parcel 2 the easement is relocated to the proposed paved roadway.

The 3.14 parcel area is currently vacant and cleared. The proposed improvements as shown on the site plan show a lot coverage area of 27.4% (37,596 sq.ft.) of the allotted 30% (41,145 sq.ft.) meeting the requirements of the ordinance for lot coverage limitations.

The area of disturbance for the proposed development will require the applicant to apply for erosion and sediment control permit and a stormwater management permit from the North Carolina Department of Environmental Quality. Dare County does not have a stormwater management ordinance and we rely on the States stormwater permit process. The applicant plans to manage stormwater runoff internal to the property through a series of basins and swales as depicted on the site plans grading and drainage plan. The State permits will be applied for once the applicant receives local approval, and copies of approvals shall be provided to the planning department before ground disturbing activities can occur. If after the States review a reduction to the proposed built upon area occurs those changes can be handled administratively. Section 22-65 of the Dare County Zoning Ordinance allows for minor modifications to approved Special Use Permits such as a reduction in lot coverage to be exempt from the full application and approval process and may be approved by the Planning Director in writing.

Wastewater for the proposed development will be handled by two onsite TS-II engineered systems. Before issuance of building permits the applicant will have to apply for septic permits through Dare County Environmental Health. Copies of these permits shall be provided to the Planning Department as part of the building permit process.

Parking for cluster homes shall be provided at a rate of one parking space per bedroom of each cluster home, with 50% of the required parking being of an impervious surface of concrete or asphalt. The applicant is proposing to construct the dwellings on pilings with parking for two vehicles on concrete underneath the dwelling and two spaces provided in the concrete drive in front of each dwelling. The total number of spaces required for the development is 36 spaces, and the site plan shows a total of 48 spaces.

An NCDOT driveway permit will need to be obtained and provided to the Dare County Planning Department before construction activities can occur. A condition has been added to the draft SUP to reflect this item.

The applicant intends to install amenities for the residents of the development including a boat ramp, docking facility, boat/trailer storage area, and an open area reserved as a playground. Parcel two abuts a canal that connects to the Pamlico Sound, where the applicant proposes to install the boat ramp and docking facility as depicted on the site plan. The installation of the boat ramp and dock will require the need for a CAMA General Permit issued by NCDCM. The boat ramp and docking facility will be limited to use by the residents and guest of the cluster home development. The boat and trailer storage area shall be limited to the residents and guest of the cluster home. No recreational vehicle, boat, or travel trailer stored in this area shall be used for overnight accommodations, or housekeeping purposes. Conditions have been added to the draft SUP that addresses these amenities.

The Dare County Fire Marshal has reviewed the site plan and has provided comments. There shall be no parking allowed on the road within the development, and signage and surface markings shall be as specified by the Fire Marshal's Office. The road shall be paved to have an all-weather surface capable of carrying the imposed weight of fire apparatus of at 75,000 pounds. The boat/trailer parking area provides sufficient maneuvering area for the required turn around for a 40 foot fire truck, but needs to be indicated on the site plan and the developer /Homeowners Association must abide by this. Manns Harbor does not have county water supply, but the canal at the rear of the property provides a water source. The applicant will need to install either a pad parallel to the canal capable of supporting 75,000 pounds or the installation of a dry hydrant assembly designed to meet NFPA 1142 Standard on Water Supplies for Suburban and Rural Fire Fighting. The final location shall be coordinated with the Fire Chief and Fire Marshal for approval, and be installed prior to issuance of building permits. The Fire Marshal's memo is attached and conditions have been added to the draft SUP.

A copy of the as-built site plan will need to be recorded in the Register of Deeds once the infrastructure improvements have been completed. If it is the intention of the developer to sell the individual footprints of the structures, then homeowner's documents will be needed. Only the footprint of the structure can be conveyed to the individual owners with the remainder of the site designated as common area. The homeowner's documents shall include language that defines the occupancy of the structures as long-term as defined in the Dare County Zoning Ordinance (longer than 31 days). This information shall be noted on the site plan as well.

A draft SUP is attached to this memo for the Planning Boards review. Conditions can be added as part of the discussion before this item is forwarded to the Board of Commissioners.

SPECIAL USE PERMIT APPLICATION

Date: 04-03-2023 Application No. _____
Property Owner/Petitioner: Anchor Commercial LLC
Address: 129 Industrial Boulevard, Toano, VA 23168
Telephone: 757-880-7173 Email: mnice@gniceandsons.com
Review Fee Paid: \$50 per unit x 12 units = \$600.00
Project Description: Residential Housing with 12- 3 bedroom units and amenities
including playground, boat ramp and boat/trailer/RV storage for residents.

Property Description:
Parcels D.B. 2663 Pg. 0082 0 Shipyard Road
Lot Phase/Section Block Subdivision
Parcel: 023939003 PIN: 9759-20-92-0118 and others

APPLICATION IS HEREBY made to the Dare County Planning Department for consideration of a Special Use Permit in accordance with the provisions of the Dare County Zoning Ordinance

Section: 22-31.1 Special Use: Cluster Home in MH-B

A site plan and other documents as required for review of the special use permit application shall be submitted to the Planning Department with the application. A special use permit application shall not be processed by the Planning Department until such time that all review fees have been paid and all necessary documents have been submitted. Once the application is determined to be complete, the Planning Department shall schedule review of the application as established in Section 22-65 and Section 22-70 of the Zoning Ordinance.

Special use permits are subject to quasi-judicial procedures and an evidentiary hearing before the Dare County Board of Commissioners. The notice procedures of Section 22-72 of the Zoning Ordinance shall be implemented by the Planning Department. Reasonable and appropriate conditions may be applied by the Board of Commissioners as part of the evidentiary hearing process.

Applicant:  Date: 04/03/2023



COUNTY OF DARE
Department of Emergency Management
Office of the Fire Marshal
P.O. Box 1000, Manteo, North Carolina, 27954

Steven R. Kovacs, NC-CFI
Deputy Emergency Manager/Fire Marshal

(252) 475-5750

To: Noah Gillam, Planning Director
From: Steven R. Kovacs, Fire Marshal
Date: April 26, 2023
Re: Anchor Commercial LLC, Shipyard Road Residential Development

I have reviewed the submitted site plan and have the following comments:

- All roads shall be constructed of a material so to have an all-weather surface capable of carrying the imposed weight of fire apparatus of at least 75,000 pounds.
- All roads shall be maintained with the noted width of at least 20 feet and the clear height of 13-feet 6-inches, and an all-weather surface. This shall be noted on the final recorded plat.
- There shall be no parking allowed on the roads within the subdivision. Signs and surfacing markings shall be as specified by the Dare County Fire Marshal's Office.
- The road length exceeds 150-feet and will require a turn around area for fire apparatus. This area must meet the requirements noted above and allow for a fire apparatus 40-foot in length to turn around. At present there is no designated turn around area, but conversations with the project engineer the boat trailer area provides sufficient area to meet this requirement. This must be noted on the drawing and the developer/HOA must abide by this arrangement.
- There is no public water system available within Manns Harbor, but a water source must be available for the fire department. At the rear of the project is a canal which should suffice the water requirement. There are two options the first being the preferred: 1) installation of a pad meeting the above requirements adjacent and parallel to the canal/boardwalk. 2) installation of a dry hydrant assembly designed to meet NFPA 1142 Standard on Water Supplies for Suburban and Rural Fire Fighting. Final location shall be coordinated with the Fire Chief and Fire Marshal for approval.
- Again, since there is no public water system the needed fire flow is based on NFPA 1142. Using this standard, the determine needed fire flow is 500 gpm which the design of the dry hydrant will far exceed.
- Need to note street names and addressing which must be approved by this office and coordinated with Dare County 911.
- The water access/dry hydrant and basic road improvements must be installed and approved prior to the commencement of any home construction. Roads must remain clear during construction for emergency vehicle access.

** Please understand that approval of any documents in no way relieves the owner, the architect, the engineer, or the contractor from the responsibility of violations of governing codes and regulations not found by our office. When such violations are found they must be corrected.*

SECTION 22-31.1 - CLUSTER HOME DEVELOPMENTS (Adopted 10-15-2018)

Cluster home developments consist of more than one residential dwelling on one parcel of land whereby the dwellings are occupied on a long-term basis. These standards are designed to facilitate the development of cluster home projects in unincorporated Dare County subject to the following provisions. The following provisions shall apply:

(a) Cluster homes developments shall be subject to review and approval as special uses in the following zoning districts: R-2, R-2A, R-2B, R-2H, R2-AH, R-3, RS-6, RS-8, SP-2, SP-C VC-2, C-2, C-2-H, C-3, 1-1, S-1, CS, BT, RB, MLM, WVC, MC-1, MC-2, and Highway 345. Minimum lot size: 20,000 square feet in these zoning districts.

(b) Cluster homes developments shall be subject to review and approval as special uses in the following zoning districts: NH, RS-1, R-1, SNC, VR, WR1, MH-A, MH-B, ELR, and ELNH. Minimum lot size: 30,000 square feet in these zoning districts.

(c) Setbacks: Dwellings constructed as part of a cluster home development shall be subject to the setbacks of the applicable zoning district.

(d) Separation of dwellings: 15 feet.

(e) Lot coverage: 30% of the total lot area.

(f) Building height: Same as the applicable zoning district.

(g) Maximum size of dwelling: Any dwelling constructed as part of the cluster home development shall not exceed 1,200 square feet of heated/conditioned space.

(h) Parking: Parking for cluster homes shall be provided at a rate of one parking space per bedroom of each cluster home. Such parking may be provided at individual dwelling sites or in a congregate area for the entire development. Fifty percent (50%) of the required parking shall be of an impervious surface of concrete or asphalt (not to include asphalt millings or other similar products).

(i) Roads – cluster home developments that cannot be properly served by emergency or service vehicles from an existing abutting road or street, shall be made accessible to such vehicles from a 30' right-of-way with 20 feet of paved improvements.

(j) Ownership of cluster homes – cluster home sites may be transferred to individual owners with the remainder of the lot dedicated as common area owned by a homeowners association or similar entity. Cluster homes shall be occupied or rented on a for long-term occupancy as defined in Section 22-2 of the Zoning Ordinance.

(k) A copy of the approved special use permit for a cluster home development shall be recorded with the approved site plan of the development.

(l) Other reasonable and appropriate conditions to reflect individual specific site conditions may be applied to cluster home development as part of the special use review and approval process.

(Ord. passed 10-15-2018; Am. Ord. passed - - ; Am. Ord. passed 6-21-2021)

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Special Use Permit No. #4-2023

Dare County Sections 22-23.3, 22-31.1, 22-65, & 22-70

Application of: Anchor Commercial LLC

On June xx, 2023 the Dare County Board of Commissioners considered the application of the Petitioner above named which application is on file with the Dare County Planning Department, and the Board finds as follows:

1. That the written application of Petitioner with attachments has been duly submitted to the Dare County Planning Department as required by Section 22-65 of the Dare County Code (hereinafter referred to as "Code");
2. That the application substantially complies with the requirements of the Code in that it requests uses permitted by special use permit under the Code subject to the quasi-judicial procedures set forth in Section 22-70, including; Cluster Home Developments
3. The subject property is zoned MH-B. This property is identified on the Dare County tax records as PARCEL 023939003 & 023939002 and located in the Manns Harbor Tax District.
4. That the Dare County Board of Commissioners is empowered under sections of the Code set out above to approve special uses and apply reasonable and appropriate conditions;
5. That the notice procedures of Section 22-72 of the Code have been implemented in the review of this Special Use Permit;
6. That upon the evidence received, the testimony presented, and the submitted written record, there are sufficient facts to support the issuance of this Special Use Permit according to the following terms and conditions:

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SPECIAL USE: A Cluster Home Group Development consisting of 12 residential structures, boat ramp/docking, boat/trailer storage and associated infrastructure as depicted on the Appendix B Included as part of this Special Use Permit.

CONDITIONS:

1. The cluster home group development shall operate as prescribed in the definition set forth in Section 22-31.1 of the Dare County Zoning Ordinance. The structures shall be constructed as depicted on the Appendix B and shall not be occupied or rented on a short-term basis (less than 31 days) as defined in Section 22-2 of the Dare County Zoning Ordinance.
2. A plat shall be recorded in the Dare County Register of Deeds combining the two parcels of land proposed for development. This plat shall be recorded before issuance of building permits by Dare County for the twelve new dwellings.
3. All structural improvements shall be located in the dwelling footprints as recorded on the final plat. The conditioned space of each structure shall not exceed 1200 square feet in area.
4. The structures shall be located on the parcel in conformance with the setbacks of Section 22-23.3 and Section 22-31.1 of the Zoning Ordinance and the Dare County Flood Damage Prevention Ordinance.
5. A final site plan of the cluster home development depicting the footprint areas shall be recorded in the Register of Deeds. The cluster home sites may be transferred to individual owners with the remaining of the site dedicated as common area owned by a homeowners association or other similar entity. A copy of the signed special use permit shall be recorded with the final site plan. The homeowner's documents shall include language that defines the occupancy of the structure as long-term as defined in the Dare County Zoning Ordinance.
6. The recorded homeowner's documents shall include fees for the maintenance of the wastewater systems, stormwater infrastructure, road improvements, and any other infrastructure. A copy of the recorded homeowner's documents shall be provided to the Dare County Planning Department.
7. Building permits for the structures shall be secured within 36 months from date of Board of Commissioners approval. An as-built survey for the property shall be submitted to the Planning Department upon the completion of all of the structures to confirm compliance with the terms of the Dare County Zoning Ordinance. If the developer chooses to construct the structures at different times, then individual as-built surveys for each structure shall be required before any structure is certified for occupancy.
8. Roads internal to the development shall be paved and constructed as depicted on the approved site plan. The road shall be constructed to support 75,000 pounds as indicated

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by the Dare County Fire Marshal. Upon completion, road improvements shall be certified by a NC licensed engineer to meet the weight specification stipulated by the Fire Marshal. Road maintenance shall be the responsibility of the Petitioner or any homeowners association that is established for the cluster home development. The road improvements shall be perpetually maintained to comply with the approved construction specifications. All roads shall be maintained with a clear height of 13-feet 6-inches.

9. There shall be no parking allowed on the roads within the development. No parking signs and surface markings shall be installed.
10. A pad capable of supporting a 75,000 pound firetruck shall be installed adjacent and parallel to the canal on the rear of the property or a dry hydrant assembly installed to meet the specifications of NFPA 1142 Standard on Water Supplies for Suburban and Rural Fire Fighting. The needed water fire flow shall be provided at a rate of 500 gallons per minute.
11. All firefighting apparatus and basic road improvements must be installed and approved by the DCFMO prior to the issuance of building permits. Roads shall remain clear during construction for emergency vehicle access.
12. Driveway permits or approvals from NCDOT shall be provided to the Planning Department before land disturbing activity can occur.
13. There shall be no staging of equipment or materials in or along the right-of-way of Shipyard Rd (S.R. 1105).
14. All supplemental State and Federal permits shall be secured prior to ground disturbing activities. This shall include Sedimentation and Erosion Control, Stormwater, Environmental Health, and CAMA permits. Copies of these permits shall be provided to the Dare County Planning Department.
15. The use of the boat ramp and docking facility shall be limited to the residents and guest of the development. The boat ramp and docking facilities shall not be used for commercial activities.
16. The boat and trailer storage area shall be limited to the use of residents and guest of the development. This area shall not be for commercial activities. No recreational vehicle, automobile, boat, or travel trailer stored in this area shall be used for overnight accommodations or housekeeping purposes.
17. No changes or deviation from the terms and conditions of the special use approval shall be made until written approval of the proposed changes or deviations has been obtained from Dare County. The quasi-judicial procedures set forth in the Code shall be followed for the review and approval of major modifications. Minor modifications as established in Section 22-70 of the Code may be authorized administratively by the Planning Director.

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18. A violation of this Permit shall be a violation of the Code and the special use may be revoked by the Board of Commissioners. Special use approval shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any development regulation or any State law delegated to Dare County for enforcement purposes; or for false statements or misrepresentations made in securing special use approval. The same process for approval of a special use permit, including notice and hearing, shall be followed in the revocation of a special use permit.
19. All other terms and provisions of the Dare County Zoning Ordinance shall remain in full force and effect except as herein specifically permitted otherwise;

This _____ day of June 2023

SEAL:

COUNTY OF DARE

By: _____
Robert L Woodard Sr.
Dare County Board of Commissioners

ATTEST:

By: _____
Cheryl Anby
Clerk to the Board

THIS PERMIT AND THE CONDITIONS HEREIN ARE ACCEPTED

By: _____
Mike Nice
Anchor Commercial LLC

APPROVED AS TO LEGAL FORM

By: _____
Robert L Outten
County Attorney

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