



Dare County Planning Board Meeting

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

September 5, 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 August 1, 2023 meeting
- IV. Public Comment
- V. Old Business
- VI. New Business
 - a. **THREE LOT SUBDIVISION IN RODANTHE - PARCEL 012552000, ESTATE OF JAZANIA O'NEAL/MIDGETTE**
 - b. **PUBLIC HEARING ON THE TRANSFER OF THE 10 MARTIN'S POINT COMMERCIAL PROPERTIES FROM SOUTHERN SHORES ETJ TO DARE COUNTY**
- Other Business
- VII. Adjournment

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Tuesday, August 1, 2023. This meeting was held in Room 168 of the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

CALL TO ORDER 6:00PM

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

MEMBERS ABSENT Beth Midgett
David Overton

APPROVAL OF MINUTES

There being no additions, deletions or corrections to the minutes of the July 6, 2023 meeting of the Dare County Planning Board, Terry Gore made a motion to approve the minutes as drafted. Buddy Shelton seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

At 6:01p.m. Chairman Finelli outlined the procedure for making Public Comments. There were no public comments made at this meeting.

Public Comment Closed at 6:02

OLD BUSINESS

-None-

NEW BUSINESS

Preliminary Plat Review, 3 Lot Subdivision Revision, Port Avon East, Lots 2,3 and 11-16. Applicant: John Robert Hooper

Property owner, John Robert Hooper of Buxton was present at the meeting.

Mr. Gillam, Planning Director, addressed the Board. His comments are shown below:

Mr. Gillam stated this is a reconfiguration of an existing 16 lot subdivision. He explained the original subdivision was platted in 1996, under the dimensional requirements of the

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R2-A, which requires single family lots not serviced by a central water supply to have 20,000 square feet of area and be connected to a private well. He further explained the owners of 8 of the lots are proposing to install a new water line connecting to Dare County's central water system, which will allow for 8 lots to be reconfigured to the reduced 15,000 square feet minimum and will allow for 3 new lots to be created with the reserve square footage. Mr. Gillam noted when the water line is extended to the subdivision, a fire hydrant will need to be installed at the intersection of Old Main Rd at either East Kinnakeet Reef Ct. or West Kinnakeet Reef Ct., per the Dare County Fire Marshal and the needed fire flow at the hydrant shall be 1,000 gallons per minute. Documentation of current fire flow data and the proposed designed waterline capabilities shall be provided to the Dare County Fire Marshal to ensure the required flow can be achieved. Test data at the new hydrant shall be provided prior to recording the final plat. The final plat shall show the CAMA AEC line and include language stating "Some portions of some lots in this subdivision are located in Areas of Environmental Concern. Individual permits may be required before development may take place in these areas". Mr. Gillam stated that Ownership Certificates for the three property owners dividing the property shall be included on the final plat and Note 10 shall be updated to include the owner of Lot 2.

DISCUSSION:

The lot numbers being reconfigured and/or assigned were clearly identified and a revised plat was provided. Chairman Finelli suggested a revision of Note 10 to state "Property Ownership of the Lots that are to be configured". It was agreed that language would suffice and based on the updated plat submitted, Mr. Gillam stated there were no other requirements needed outside of this correction to Note 10.

Buddy Shelton made a motion to approve the preliminary plat for reconfiguration of Port Avon East Subdivision. Terry Gore seconded the motion.

Vote: Ayes - Unanimous

Zoning Text Amendment to Section 22-25 C-2, Request to add Breweries to the list of uses. Applicant: Joseph Falk and Jeffery Keznor

Jeffrey and Nareina Keznor of Avon were both present at the meeting representing themselves, as well as an authorized agent of Joseph Falk, the property owner.

Savannah Newbern, Planner, addressed the Board. Her comments are shown below:

Ms. Newbern stated Joseph Falk and Jeffrey Keznor have submitted a text amendment request to amend the Dare County Zoning Ordinance, C-2 General Commercial zoning district, Section 22-25. Mr. Falk and Mr. Keznor seek the addition of Breweries to the list of uses allowed in areas zoned C-2. Ms. Newbern explained the C-2 district applies to portions of Avon and Buxton, and is intended to provide for the development of

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commercial facilities to serve permanent residents and the general public and that any text amendment to the C-2 district would also apply to all lands zoned C-3 in Avon, Buxton, and on Roanoke Island.

Ms. Newbern noted the C-2 district offers a range of commercial uses and included a copy of the C-2 regulations for the Board's review. The Dare County Zoning Ordinance already defines Brewery as follows: A facility licensed by the State of North Carolina to produce, manufacture and distribute malt beverages. The total amount of malt beverages produced at a brewery shall not exceed 10,000 barrels annually. The current permitted uses in C-2 allow for such uses as retail stores, service establishments, and indoor recreation uses.

Ms. Newbern further stated the 2009 Dare County Land Use Plan includes two policies under Commercial Development heading that are pertinent to this proposed text amendment. A copy of this information is attached with the staff memorandum. LUC #5 encourages the continued existence of locally- owned businesses in unincorporated Dare County. LUC#6 addresses the scope of commercial development and the use of gross floor area limitations to manage the size of commercial development. This proposed text amendment does not seem incompatible with policies listed.

Staff recommends language similar to the existing language for breweries allowed as a special use in the SP-C Neighborhood Commercial District. The Planning Board may consider including additional relevant and reasonable conditions. Additionally, the Planning Board may consider recommending text amendment language which allows for breweries as special use. Staff has included the language recommending breweries as a permitted use, due to the differences in character between patterns of commercial development in the C-2 Commercial district and the SP-C Neighborhood Commercial district. SP-C is a very low-density, neighborhood-serving zoning district located in Stumpy Point, whereas the C-2 district is more intensely developed with existing commercial business serving both residents and visitors to Dare County. The first condition proposed in the language below is intended to provide for the proper spacing of commercial development from residential uses.

The following language is suggested:

Permitted Uses:

Breweries as defined in Section 22-2 provided the following conditions are met:

- a. No portion of the building or processing area shall be located closer than 75 feet to a residential structure. There shall be no outdoor storage of raw materials used in the manufacture of malt beverages.
- b. Minimum parking requirement. On-site parking for delivery trucks and employees shall be provided at a ratio of one 10 feet by 20 feet parking space per 1,000 square feet of heated gross floor area or a minimum of ten spaces whichever is less.

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Discussion:

Chairman Finelli stated the parking requirements would need to be addressed. Mr. Gillam reaffirmed this Zoning Amendment was not Site Specific. After the discussion, it was decided the parking standard to be one-(1) parking space per 200 sq. ft. of retail space and one-(1) parking space per 1,000 sq. ft. of production area. Other suggested revisions were changing the language of the draft to state "No portion of the building or processing area shall be located closer than 75 feet to an existing residential structure". Additionally, Ms. Newbern mentioned the fact that this district requires a buffer to be installed between any residential and commercial uses.

Terry Gore made a motion to advance and recommend this Zoning Text Amendment to the Dare County Commissioners. Seconded by John Deboy.

Vote: Ayes - Unanimous

Zoning Map Amendment Application to convert 41027 NC 12 Hwy Avon from C-2 to C-3. Applicant: Land's End Development, LLC

Joe Thompson of Frisco, property owner, was present at the meeting.

Mr. Gillam, Planning Director, addressed the Board. His comments are shown below:

A zoning map amendment application has been submitted by Joe Thompson of Land's End Development for his property located at 41027 NC 12 Hwy in Avon, NC. Mr. Gillam stated the property is currently zoned C-2 Commercial and functions as a theater and a pool facility for the applicant's adjoining property and the applicant is seeking to have the property rezoned C-3 commercial. It is the applicant's goal, if the map amendment is approved, to recombine his adjoining property to the north that is zoned C-3 with this parcel so they can function in unity. If the map amendment is approved the applicant will have to submit a recombination plat, and have the special use permits for both properties amended so they operate in conjunction.

The surrounding properties around the subject parcel are zoned C-2 Commercial and C-3 Commercial. Mr. Gillam stated the property to the north is owned by the applicant and is zoned C-3, and currently a travel trailer park, restaurant, mobile food truck court, and fishing pier operate on the parcel. The property to the south is zoned C-2 commercial and has a multi-family condominium complex on it and the properties to the west across NC Hwy 12 are zoned C-2 and have a mix of retail, offices, and restaurants located on them. The property to the east is bordered by the Cape Hatteras National Seashore and the Atlantic Ocean.

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Mr. Gillam explained the C-3 zoning district is established to provide for the development of commercial facilities to furnish a broad range of services and commodities to serve the entire community. The C-3 permits such uses as, building supply and equipment sales, travel trailer parks/campgrounds, indoor recreation activities, and all uses permitted in the C-2 zoning district. Copies of both zoning districts ordinances are attached to this memo.

After review of the surrounding properties uses and zoning, Mr. Gillam communicated that a reclassification to C-3 commercial for the applicant's parcel would not disrupt the flow of surrounding area uses and zoning districts. The property would be contiguous with properties currently zoned commercial. It is staff's recommendation that the reclassification to C-3 meets the requirements and is appropriate.

Mr. Gillam noted the Zoning Amendment Consistency Determination with Dare County Land Use Plan that is included within this memo for the Board's review should be included with any recommendation made.

This item will be forwarded to the Dare County Board of Commissioners, and a Legislative Hearing will be scheduled and conducted before any action by the Board of Commissioners is considered.

Discussion:

Mr. Thompson provided an aerial map for Board review. He reiterated that the goal was to combine the two properties. He believes the property is more beneficial as a single piece and he does not see any additional uses in the future that would not be permitted in C-2.

Terry Gore made a motion to advance this to the Dare County Board of Commissioners with a recommendation of changing the specific zone from C-2 to C-3, pursuant to Finding of Consistency with the 2009 Dare County Land Use Plan Update, specifically Policies 5 and 6. Buddy Shelton seconded the motion.

Vote: Ayes - Unanimous

OTHER BUSINESS

Chairman Finelli anticipates an upcoming public hearing for new zoning in Martin's Point on commercial properties from Southern Shores Extra Territorial Jurisdiction to Dare County.

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Additionally, Mr. Gillam anticipates having the Land Use Plan update set for review in September and further proceed in adoption by the commissioners and formerly adopted by the State.

ADJOURNMENT

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

Vote: Ayes – Unanimous

The meeting adjourned at 7:02PM..

Respectfully Submitted,

Gerri Ellington
Planning Board Clerk

APPROVED: September 5, 2023

John Finelli
Chairman, Dare County Planning Board

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SUBDIVISION FACTSHEET

Planning Board – September 5th, 2023 Preliminary Plat Review

NAME: Jazania Herbert O’neal Subdivision
LOCATION: Rodanthe, NC
SITE SPECIFICS: Total site area: 4.275 acres
Number of proposed lots: 2 + residual parcel
Smallest lot area: 16,232 square feet
Zoning: S-1 District

STREETS:

Each lot is accessed from a proposed 20’ easement. The applicant is required improve the entire access easement with gravel capable of handling emergency and trash collection vehicles.

UTILITIES:

Water: Centralized water-supply
Sewer: Individual on-site septic system
Stormwater: No state permits required per NC Department of Environmental Quality

STAFF COMMENTS:

This proposed division is scheduled for review by the Planning Board on September 6th. The size of the parent parcel exceeds the threshold for administrative approval. The proposed lots meet or exceed the minimum lot size requirements for the S-1 zoning district. The proposed lots are currently vacant. Lot One-R is the largest proposed lot at 140,339 square feet. Minimum building setback lines are shown on this plat for Lot Three and Lot Four. All applicable state and federal permits, including wetland fill permits from the US Army Corp, shall be obtained and a copy provided to the Dare County Planning Department.

The requested action is a motion to approve: “I move that the preliminary plat for the Jazania Herbert O’Neal subdivision be granted approval.”

Savannah Newbern

Savannah Newbern

8/25/2023

Date



County of Dare

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

August 8, 2023

MEMORANDUM

TO: DARE COUNTY PLANNING BOARD

FROM: Noah H Gillam, Planning Director *NHG*

RE: Dare County to receive Martins Point Commercial lots from Town of Southern Shores

The Town of Southern Shores is currently working to relinquish their Extra Territorial Jurisdiction (ETJ) of the 10 Martins Point Commercial (MP-C) properties to Dare County. This transfer would place these properties under Dare County regulation for Planning, and zoning purposes. Currently Southern Shores anticipates adopting the transfer ordinance on October 3, 2023. As part of this process Dare County must review and process proposals to adopt development regulations (zoning ordinance) that would apply in the newly acquired jurisdiction. General Statute 160D-204 allows a county receiving a jurisdiction to begin this process before the transfer takes place but no final decisions shall be made on any development approval prior to the actual transfer of jurisdiction.

The Draft Ordinance for the Martin's Point Commercial district offers a list of uses that are reflective of the current uses that are afforded these properties under Southern Shores, and are reflective of the current uses in the Dare County zoning ordinance for similar commercial properties. Dare County Planning Staff in review of the Southern Shore ordinance for the MP-C district found that the current ordinance could be amended for Dare County with several amendments that would make the new draft ordinance consistent with the already established commercial districts in Dare County and the recorded plat for the Martin's Point Commercial lots. The changes would include mixed used development as a permitted use (commercial and residential on the same parcel), and changes to the buffer requirement on rear property lines. A draft copy of the proposed MP-C ordinance is attached for the boards review.

All 10 properties in Martins Point Commercial district are currently developed. The current uses included doctors' offices, real estate offices, insurance offices, veterinarian clinic, child care facility, and a garden center.

As with any proposed zoning regulation or change the planning board shall provide a recommendation to the Board of Commissioner's. This recommendation shall include a finding of consistency with the Dare County Land Use Plan. A draft finding is included with this memo.

This item will be forwarded to the Dare County Board of Commissioners, and a Legislative Hearing will be scheduled. The Dare County Board of Commissioners will not be able to make a final decision on the adoption of development regulation prior to the date of Southern Shores actual transfer of the jurisdiction.

MARTIN'S POINT

COMMERCIAL LOTS

ATLANTIC TOWNSHIP, DARE COUNTY, NORTH CAROLINA

FILED
 MAR 20 AM 9 17
 DEPT. OF RECORDS
 TOWN OF SOUTHERN SHORES

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owners of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines and dedicate all roads, alleys, walks, parks, and other sites to public or private use as noted. Further, I (we) certify that the land as shown hereon is within the planning jurisdiction of Dare County.

I (we) make as a material representation of fact to purchasers of property within this subdivision, and to governing authorities of Dare County, in accord with Section 721 of the Dare County Subdivision Regulations, that the road improvements proposed within the subdivision will be made.

By: David S. Watson
 SECRETARY
 By: Michael Radtke
 PRESIDENT

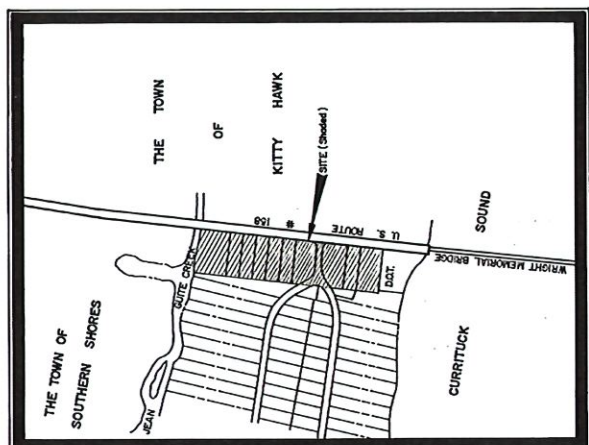
Date: 3/24/82
 Date: 3/24/82

Subscribed and sworn to before me this 24th day of March, 1982
 My commission expires 11/19/86



HEALTH DEPARTMENT
 I hereby certify that the lots as proposed in this map of the subdivision entitled "MARTIN'S POINT COMMERCIAL LOTS" meet the requirements as to minimum area for an individual sewage disposal and water supply as provided by ordinance of the Dare County Board of Health. (Lots are evaluated separately as to topography, drainage, and soil porosity.)
 Date: 3/24/82
 With Director
 The streets and roads in this subdivision are private in accordance with North Carolina General Statute # 55-122.5. Therefore, the Town of Southern Shores, Dare County and the North Carolina Department of Transportation will not be responsible for any street maintenance whatsoever.

CERTIFICATE OF APPROVAL BY THE PLANNING BOARD
 I, Robert W. West, Chairman of the Southern Shores Planning Board, hereby certify that said board duly approved the final plat of the subdivision entitled "MARTIN'S POINT COMMERCIAL LOTS".
 Date: 3 APRIL 1982
 Chairman



—LOCATION MAP—
 (N.T.S.)

OWNER: MARTIN'S POINT, INC.

THE TOWN OF SOUTHERN SHORES - CERTIFICATE OF APPROVAL FOR RECORDING PLAT

I, Ray A. Brinkley, Town Clerk of Southern Shores, North Carolina, do certify that on the 9th day of April, 1982, the Southern Shores Town Council approved this plat for recording.

Date: 9 April 1982
 Town Clerk: Ray A. Brinkley

SURVEYORS' CERTIFICATE

I, H. F. Pyatt, Jr., certify that this map was drawn under my supervision from an actual survey made under my supervision, that the error of closure as calculated by latitudes and departures is 0.0000, that the boundaries not actually surveyed are shown as broken lines plotted from information found in existing records and that this map was prepared in accordance with G. S. 47-30 as amended. Witness my hand and seal this 15th day of March, 1982.

Hubert F. Pyatt, Jr.
 R.L.S. L-1508



NOTARY CERTIFICATE

Subscribed and sworn to before me this 15th day of March, 1982
 My commission expires 11/19/86

Thomas D. Maggett
 Notary



CERTIFICATE FOR RECORDING PLAT

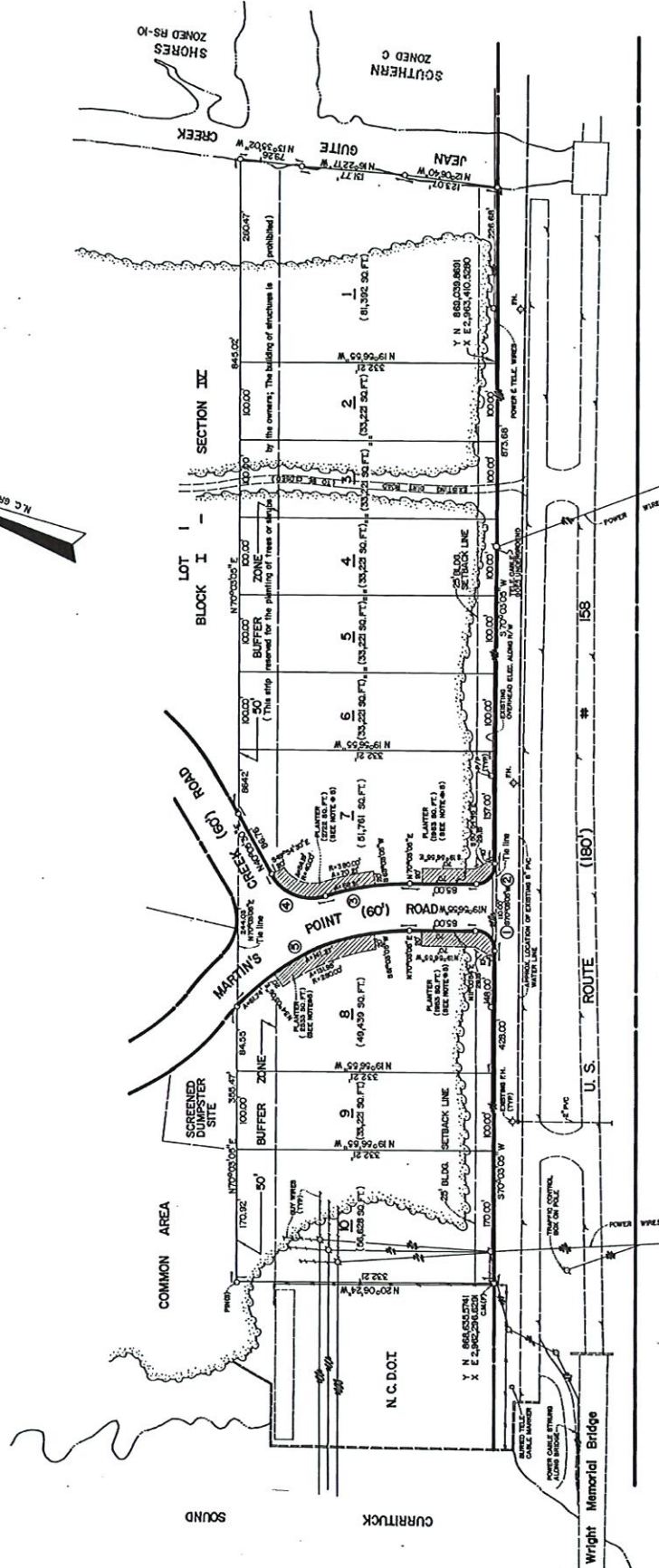
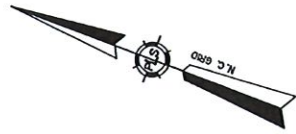
The foregoing certificates of Herndon F. Pyatt, Jr., R.L.S., and Thomas D. Maggett a Notary Public of Dare County, North Carolina, are certified to be correct, presented for registration this the 28 day of May, 1982, at 9:17 o'clock, A. M., and recorded in the office in Book 129, Page 74 & 75

David H. Wilson
 Register of Deeds

By Assistant Register of Deeds

— CURVE TABLE —

No.	Delta	Radius	Arc	Tangent	Chord
1	90°00'00"	25.00'	39.27'	25.00'	30.36'
2	90°00'00"	25.00'	39.27'	25.00'	33.36'
3	17°25'09"	360.00'	110.80'	65.67'	10.00'
4	17°25'24"	60.00'	8.29'	4.82'	7.52'
5	47°47'26"	300.00'	250.25'	192.80'	243.04'



NOTES:

- TOTAL AREA OF SUBDIVISION EXCLUDING R/W = 405,946 SQ. FT. OR 9.267 ACRES.
- CONCRETE MONUMENTS TO BE SET AT ALL CORNERS, (TO BE A PART OF MARTIN'S POINT, SECTION ONE).
- CONCRETE MONUMENTS TO BE SET AT ALL BUFFER LOT CORNERS.
- PROP 25' BLDG. SETBACK LINE ALONG (180), 10' SETBACK ALONG MARTIN'S POINT RD. AND CREEK RD, 10' SETBACK ALONG ALL INTERIOR SIDE LOT LINES.
- OWNERSHIP OF PLANTER AREAS (HATCHED SHADING) RETAINED BY MARTIN'S SUBDIVISION. THESE ARE NEITHER A PART OF LOTS 7 AND 8 NOR A PART OF THIS SUBDIVISION.

SUBDIVISION
OF
MARTIN'S POINT COMMERCIAL LOTS
ATLANTIC TOWNSHIP, DARE COUNTY, NORTH CAROLINA
MARCH 15, 1982
PROFESSIONAL LAND SERVICES, INC.
KITTY HAWK, NORTH CAROLINA



• **Sec. 36-207. - C general commercial district.**

modified

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONEMAIL SECTIONCOMPARE VERSIONS](#)

(a)

Intent. The C district is established to provide for the proper grouping and development of commercial facilities to serve permanent and seasonal residents.

(b)

Permitted uses. The following uses shall be permitted by right:

(1)

Offices, including such uses as:

a.

Business.

b.

Financial.

c.

Governmental.

d.

Medical and professional.

(2)

Retail stores, including such uses as:

a.

Antiques.

b.

Books.

c.

Cameras.

d.

Candy.

e.

Clothing.

f.

Craft goods.

g.

Delicatessens.

h.

Drugs.

i.

Flowers.

j.

Food stores.

k.

Gifts.

l.

Hardware.

m.

Health and beauty aids.

n.

Hobby goods.

o.

Household appliances.

	p.
Jewelry.	
	q.
Leather goods.	
	r.
Magazines.	
	s.
Medical supplies.	
	t.
Music and musical instruments.	
	u.
Office supplies.	
	v.
Sporting goods.	
	w.
Tobacco products.	
	x.
Toys.	
	y.
Video rentals.	
	z.
Wines.	
	(3)
Service establishments, including such uses as:	
	a.

Banks.

b.

Barbershops and beauty shops.

c.

Business service—copying, photocopying and computer services.

d.

Churches.

e.

Dry cleaning and laundry pickup stations.

f.

Funeral homes.

g.

Indoor motion picture theaters.

h.

Pharmacy, with or without a drive-through facility.

i.

Radio and television broadcasting studios (excluding transmitter sites).

j.

Shoe repair.

(4)

Detached single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, and accessory buildings, according to the density and dimensional requirements of the RS-8 multifamily residential district. For multifamily dwellings, the lot coverage shall not exceed 40 percent.

(5)

Town-owned or leased facilities.

(6)

Planned unit developments in accordance with article IX of this chapter.

(7)

Parking lots and sewage treatment drainfields, when located on a lot which is adjacent to and adjoins real property in an adjacent municipality, upon which a principal building or use has been approved by the municipality, and to which the parking lot and sewage treatment drainfields are necessary or incidental.

(8)

Collocations and eligible facilities requests in compliance with [section 36-175\(c\)](#).

(9)

Estuarine bulkheads must be permitted by all applicable local, state and federal agencies having jurisdiction.

(10)

Event facilities.

a.

Customer parking requirements for event facilities shall be one space for each 150 square feet of floor area;

b.

A septic permit must be obtained from the county health department to accommodate the maximum number of attendees permitted.

c.

Food preparation shall meet all local and state requirements.

d.

All events in which alcohol is to be served shall not be held until an approved state ABC permit has been issued.

e.

All events shall be in compliance with all Town Code requirements, including the town noise ordinance.

(11)

Produce stands. The retail sale of fruits, vegetables, plants, and other agricultural and horticultural products subject to the following requirements:

a.

All stands shall meet the yard requirements for the C general commercial district;

b.

No sales shall be conducted between 8:00 p.m. and 7:00 a.m.;

c.

No additional lighting shall be allowed;

d.

All stands shall comply with all applicable Dare County Health Department requirements and N.C. Department of Agriculture requirements;

e.

Only one stand per lot shall be allowed;

f.

When located on a lot with 50 or more existing parking spaces, no additional parking spaces will be required. When located on a lot with fewer than 50 existing parking spaces, a minimum of three off-street parking spaces shall be provided. When located on a vacant lot, parking spaces shall be provided on an adjacent lot with existing parking spaces that is under same ownership;

g.

One freestanding sign not exceeding 32 square feet in area or six feet in height shall be allowed;

h.

If applicable, a building and/or electrical permit shall be obtained;

i.

The display, storage and/or sale area shall not impede vehicular or pedestrian traffic and parking;

j.

On-site garbage or trash receptacles must be provided and properly maintained at all times.

(c)

Conditional uses. The following uses shall be permitted as a conditional use, subject to the requirements of this district; shall be subject to conditions and modifications relating to impacts on adjacent properties, transportation and transportation systems, transportation interconnectivity, stormwater, utilities and telecommunications facilities (including capacity), vegetation and other

elements of the natural environment, noise, hours of operation, and other factors that the town council finds applicable; and additional regulations and requirements imposed by the town council, as provided in article X of this chapter:

(1)

Restaurants without a drive-through facility or with a drive-through facility, provided:

a.

Restaurants with a drive-through facility shall not exceed 2,500 square feet.

b.

The location of the drive-through facility is a minimum of 100 feet from any residentially zoned property.

c.

It allows for stacking of a minimum of six cars.

(1.5)

Drive-through facility or establishment (small), provided:

a.

Drive-through facility or establishment (small) shall not exceed 2,500 square feet.

b.

The location of the drive-through facility is a minimum of 100 feet from any residentially zoned property.

c.

It allows for stacking of a minimum of six cars.

d.

Lot shall have frontage along US Hwy 158.

(2)

Veterinary clinic, provided that all boarding runs and kennels are in an enclosed, heated, and air conditioned building.

(3)

Child day care center, subject to other requirements of this chapter and provided the following conditions are met:

a.

The facility shall adhere to the minimum requirements of and be licensed by the state department of human resources.

b.

Pickup and dropoff areas shall be provided separate from the drive aisle. The pickup and dropoff areas shall be designed so that no child is required to cross the parking lot or any other traffic areas.

(4)

Sewage system effluent disposal subsurface drainfields and repair areas, under the following conditions:

a.

The lot shall be in existence and recorded at the time of adoption of this provision;

b.

The drainfield shall not exceed a total area of 14,400 square feet;

c.

There shall be no sewage treatment facilities other than the disposal drainfields;

d.

There shall be no aboveground appurtenances;

e.

A buffer strip shall be planted between the drainfield and/or repair area and any adjacent right-of-way, in accordance with the technical requirements of [section 36-163\(2\)h](#) (parking lot planting), and maintained;

f.

Maintenance and operation of the drainfields, in compliance with state, county and town laws, rules and regulations, shall be a continuing condition of approval; failure to do so shall result in revocation of approval of the development by the town, and the owner and/or operator of the drainfield shall cease all use of the drainfield until such use is authorized by the town.

(5)

Group development of town-owned or leased facilities.

(6)

Group development of commercial buildings, provided:

a.

Minimum size of any building shall be 2,500 square feet.

b.

All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.

(7)

Garden center/nursery, provided:

a.

A ten-foot high solid fence must surround all storage areas for business vehicles, equipment and bulk storage.

b.

All principal and accessory structures must conform to the building code (e.g., greenhouses) with no agricultural exceptions.

c.

Outdoor plant displays (retail/nursery areas) access walks shall comply with site accessibility requirements of the building code (e.g., wheelchairs and motorized carts).

d.

Required parking spaces and drive aisles shall be asphalt or concrete. Business vehicle and equipment parking and drive area shall be gravel/crush and run.

e.

Customer parking requirements for outdoor retail display areas shall be one space for every 500 square feet of retail space.

(8)

Wireless telecommunications sites in compliance with [section 36-175](#).

(9)

Wind generation facility in compliance with the requirements of [section 36-176](#).

(10)

Ice vending structure (automated).

a.

May only be an accessory use to a shopping center.

(11)

Mixed use group development of commercial and residential buildings, provided:

a.

Minimum size of any building shall be 2,500 square feet.

b.

All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.

c.

Lot shall be serviced by an existing community wastewater treatment facility permitted by NC DEQ DWR.

d.

Residential density shall be limited to RS-8 District allowances as established within [section 36-203\(a\)](#).

e.

A minimum of 25 percent and no more than 40 percent lot coverage of the net parcel area can be associated with building footprints containing residential uses and the required parking for residential uses.

f.

Minimum front yard (setback): 25 feet.

g.

Minimum side yard (setback): 15 feet. An additional five-foot-yard adjacent to the street is required for a corner lot.

h.

Minimum rear yard (setback): 20 feet.

i.

Maximum building height shall be 35 feet, measured from the average of the existing, undisturbed grade at the building corners.

j.

No building or other facility (such as parking spaces, incinerators, trash collection areas, etc.) shall be located nearer than 50 feet to boundaries of residential districts.

k.

Where a mixed use group development abuts a residential zone, a buffer of dense vegetative planting or natural vegetation is required (see requirements in [section 36-207\(d\)\(8\)](#)).

(d)

Dimensional requirements.

(1)

Minimum lot size: Commercial lots shall be of sufficient size to meet requirements of the Dare County Health Department, to provide adequate siting for structures, and to provide parking, loading and maneuvering space for vehicles as required by [section 36-163](#). In addition, a visual buffer strip is required where a commercial use or zone abuts a residential zone.

(2)

Minimum front yard: 25 feet.

(3)

Minimum side yard: ten feet. No side yard required if commercial building constructed with a common wall. An additional five-foot-yard adjacent to the street is required for a corner lot.

(4)

Minimum rear yard: 20 feet.

(5)

Maximum allowable lot coverage by principal use and all accessory structures shall be 60 percent except as allowed under the following conditions:

a.

Commercial lots shall be allowed the use of permeable pavement as defined by the NCDENR Stormwater BMP Manual ("Manual"). Employment of this permeable solution shall be granted the Built Upon Area (BUA) Credit as specified in the Manual.

b.

Group Developments which incorporate the use of permeable pavement as outlined above in excess of five percent of the total lot coverage shall be allowed a maximum allowable lot coverage by principal use and all accessory structures of no greater than 67 percent.

(6)

Height:

a.

a. Maximum building height shall be 35 feet, measured from the average of the existing, undisturbed grade at the building corners. If the average of the existing, undisturbed grade at the corners of the building is less than eight feet above mean sea level, the maximum building height may be measured from up to eight feet above mean sea level.

(7)

No building or other facility (such as parking areas, incinerators, trash collection areas, etc.) shall be located nearer than 50 feet to boundaries of residential districts.

(8)

Where a commercial use or zone abuts a residential zone, a buffer of dense vegetative planting or natural vegetation is required. The buffer area shall have a minimum width of 20 feet with two rows of planting material placed ten feet on center that are a minimum of five feet in height when installed that expect to achieve a height of eight feet within three years. Suitable plant types shall be those recommended for the coastal area by the U.S. Department of Agriculture which can be expected to reach a mature growth of eight to ten feet. Vegetation plan to be approved by the town council.

(9)

All uses and improvements for commercial facility(ies) including, but not limited to parking areas, vehicular access ways, active and repair septic areas and required open spaces shall be contained entirely within the general commercial zoning district, except as provided in [section 36-26](#), Rules governing the interpretation of district boundaries.

(10)

Maximum size of single-family dwelling: Single-family dwellings shall not exceed 6,000 square feet of enclosed living space.

(Code 1988, § 11-7.10; Ord. No. 01-10-016, pt. II, 10-2-2001; Ord. No. 01-11-018, pt. I, 11-5-2001; Ord. No. 05-04-03, art. IV, 5-3-2005; Ord. No. 07-01-01, art. III, 2-6-2007; Ord. No. 2009-08-01, pts. IV, V, 1-5-2010; Ord. No. 2011-04-01, art. III, pt. VIII, 4-5-2011; Ord. No. 2011-12-01, art. III,

pt. III, 12-6-2011; Ord. No. 2012-02-01, art. III, pt. III, 2-7-2012; Ord. No. 2013-03-01, art. III, pt. III, 3-5-2013; Ord. No. 2014-04-02, art. III, pt. IV, 4-1-2014; Ord. No. 2016-01-01, art. III, pt. II, 1-22-2016; Ord. No. 2016-01-02, art. III, pt. II, 1-22-2016; Ord. No. 2016-01-03, art. III, pt. I, 1-22-2016; Ord. No. 2016-01-04, art. III, pt. 6, 1-22-2016; Ord. No. 2018-05-02, art. III, pt. III, 6-5-2018; Ord. No. [2019-11-01](#), art. III, pt. VIII, 11-6-2019; Ord. No. [2022-01-03](#), art. II, pt. I, 1-4-2022; Ord. No. [2022-05-01](#), art. III, pt. I, 5-3-2022; Ord. No. [2022-06-03](#), art. III, pt. I, 6-7-2022)

DRAFT (rev. 8/10/23)

MP-C NEIGHBORHOOD COMMERCIAL DISTRICT

The following regulations shall apply to the MP-C neighborhood commercial district:

(a) Intent. The MP-C district is established to provide for the proper grouping and development of commercial facilities to serve permanent and seasonal residents.

(b) Permitted uses. The following uses shall be permitted by right:

(1) Offices, including such uses as:

- a. Business.
- b. Financial.
- c. Governmental.
- d. Medical and professional.

(2) Retail stores, including such uses as:

- a. Antiques.
- b. Books.
- c. Cameras.
- d. Candy.
- e. Clothing.
- f. Craft goods.
- g. Delicatessens.
- h. Dry goods.
- i. Drugs.
- j. Flowers.
- k. Food stores.
- l. Gifts.
- m. Hardware.
- n. Health and Beauty Aids.
- o. Hobby goods.
- p. Household appliances.
- q. Jewelry.
- r. Leather goods.
- s. Magazines.
- t. Medical Supplies.
- u. Music and musical instruments.
- v. Office supplies.
- w. Sporting goods.
- x. Tobacco.
- y. Toys.
- z. Video Rentals.
- aa. Wines

(3) Service establishments, including such uses as:

- a. Banks.
- b. Barbershops and beauty shops.
- c. Business service—copying, photocopying and computer services.
- d. Churches.
- e. Dry cleaning and laundry pickup stations.
- f. Funeral homes.
- g. Indoor motion picture theaters.
- h. Pharmacy without a drive-through facility.
- i. Radio and television broadcasting studios (excluding transmitter sites).
- j. Shoe Repair.

(4) Limited residential, where up to 40% of the floor area of an approved commercial building may be devoted to residential use in conjunction with a commercial use allowed as a permitted or special use in the MP-C district.

(5) Detached single-family dwellings and accessory buildings, according to the density and dimensional requirements of the MP-1 residential district.

(6) Two-family (duplexes) dwellings, multifamily dwellings and accessory buildings, according to the density and dimensional requirements of the RS-8 Multi-Family Residential District.

(7) County owned or leased facilities.

(8) Event facilities - meaning an establishment, structure or property designed, maintained, advertised or actually used for the primary purpose of hosting pre-planned events, including, but not limited to, private parties, community meetings, weddings, rehearsal dinners, corporate meetings, retreats, sporting events, cultural events, musical events, celebrations, or similar events that are planned in advance of their occurrence.

a. Customer parking requirements for event facilities shall be one space for each 150 square feet of floor area;

b. A septic permit must be obtained from the county health department to accommodate the maximum number of attendees permitted.

c. Food preparation shall meet all local and state requirements.

d. All events in which alcohol is to be served shall not be held until an approved state ABC permit has been issued.

e. All events shall be in compliance with all Dare County requirements, including the County noise ordinance.

(9) Produce stands. The retail sale of fruits, vegetables, plants, and other agricultural and horticultural products subject to the following requirements:

a. All stands shall meet the yard requirements for the MP-C district;

b. No sales shall be conducted between 8:00 p.m. and 7:00 a.m.;

- c. No additional lighting shall be allowed;
- d. All stands shall comply with all applicable Dare County Health Department requirements and N.C. Department of Agriculture requirements;
- e. Only one stand per lot shall be allowed;
- f. When located on a lot with 50 or more existing parking spaces, no additional parking spaces will be required. When located on a lot with fewer than 50 existing parking spaces, a minimum of three off-street parking spaces shall be provided. When located on a vacant lot, parking spaces shall be provided on an adjacent lot with existing parking spaces that is under same ownership;
- g. One freestanding sign not exceeding 32 square feet in area or six feet in height shall be allowed;
- h. If applicable, a building and/or electrical permit shall be obtained;
- i. The display, storage and/or sale area shall not impede vehicular or pedestrian traffic and parking;
- j. On-site garbage or trash receptacles must be provided and properly maintained at all times.

(c) Special Uses. The following uses are permitted subject to the requirements of this district and additional regulations and requirements imposed by the Board of Commissioners as provided in Article IX of this chapter:

(1) Commercial child care centers as defined in Section 22-2, subject to other requirements of this chapter and provided the following conditions are met:

- a. The facility shall adhere to the minimum requirements of and be licensed by the State Department of Human Resources.
- b. Pickup and drop-off areas shall be provided separate from the drive aisle. The pickup and drop-off areas shall be designed so that no child is required to cross the parking lot or any other traffic areas.
- c. The operation of the facility shall not block traffic on the State Access Road or create other traffic issues.
- d. Required parking requirements – 1 space for every 3 children plus 1 space for every employee. For facilities that were licensed at any time prior to _____, 2023, the required parking requirements shall be 1 space for each classroom plus 1 space for each administrative office.

(2) Garden center/nursery, provided:

- a. A ten-foot high solid fence must surround all storage areas for business vehicles, equipment and bulk storage.
- b. All principal and accessory structures must conform to the building code (e.g., greenhouses) with no agricultural exceptions.

c. Outdoor plant displays (retail/nursery areas) access walks shall comply with site accessibility requirements of the building code (e.g., wheelchairs and motorized carts).

d. Required parking spaces and drive aisles shall be asphalt or concrete. Business vehicle and equipment parking and drive area shall be gravel or other dust free surface. Customer parking requirements for outdoor retail display areas shall be one space for every 500 square feet of retail space.

(3) Group developments according to the provisions of Section 22-31.

(4) Restaurants without drive-thru facility.

(5) Veterinary clinic, provided that all boarding runs and kennels are in an enclosed, heated and air conditioned building.

(6) Wireless telecommunications sites in compliance with Section 22.29.2.

(7) Wind generation facility in compliance with the requirements of Section 22.29.3.

(d) Dimensional requirements.

(1) Minimum lot size: Commercial lots shall be of sufficient size to meet requirements of the Dare County Health Department, to provide adequate siting for structures, and to provide parking, loading and maneuvering space for vehicles as required by Article VII of this chapter. In addition, a Visual Buffer shall be established and maintained along the rear of any property adjacent a residential zone for any business established after _____, 2023. The required buffer shall consist of a wooden or vinyl fence (6 to 8 feet in height) or a vegetative buffer at least 6 feet in height. In some instances, existing dense shrubs, trees, and plants may provide screening, with approval of the Dare County Planning Department. The Buffer Requirements shall not apply to lots 8, 9 & 10 on the subdivision plat for the Martin's Point Commercial Lots, which is recorded in Plat Cabinet B, Slides 74 & 75, Dare County Register of Deeds.

(2) Minimum front yard: 25 feet.

(3) Minimum side yard: 10 feet. No side yard required if commercial building constructed with a common wall. An additional 5 foot-yard side yard adjacent to the street is required for a corner lot.

(4) Minimum rear yard: 20 feet.

(5) No structures are permitted within the 50 foot wide buffer zone that is shown on the subdivision plat for the Martin's Point Commercial Lots, which is recorded in Plat Cabinet B, Slides 74 & 75, Dare County Register of Deeds.

(6) Maximum allowable lot coverage by principal use and all accessory structures shall be 60 percent for commercial and mixed use.

(7) Height Limitation: 35 feet

(8) In the event a natural disaster or accidental occurrence leads to extensive damage (in excess of 50% value) of a structure or group development project in existence prior to _____, 2023, such structure or group development may be repaired, replaced or reconstructed to 100% of its status

prior to damage or destruction but no greater unless otherwise authorized by the Dare County Board of Commissioners

ZONING AMENDMENT CONSISTENCY DETERMINATION

On September 5, 2023 the Dare County Planning Board considered a zoning map amendment and zoning text amendment on the 10 Martins Point Commercial Properties that are to be relinquished to Dare County by the Town of Southern Shores. This relinquishment would place the ten Martins Point Commercial Properties under Dare County regulation for Planning and Zoning Purposes.

The 2009 Dare County Land Use Plan is the comprehensive plan for unincorporated Dare County adopted by the Dare County Board of Commissioners on December 6, 2010.

A review of the Dare County Land Use Plan found the following policies to be applicable to the zoning map and text amendment for the Martin Point Commercial District (MP-C):

Land Use Compatibility Management Topic

Policy LUC #5

Dare County encourages the continued existence and development of locally-owned businesses in unincorporated Dare County.

Policy LUC #6

Commercial development should be designed to meet the needs of Dare County's unincorporated villages and not to serve as regional commercial centers. The gross floor area limitations of the Dare County Zoning Ordinance and other applicable land use codes shall be used as a tool to manage the footprint of commercial structures. The goal is to manage the size of the commercial structures, which serves as a disincentive for regional commercial centers for location in villages.

Based upon a review of these policies, the Dare County Planning Board finds the zoning map and text amendment for the MP-C District to be consistent with the 2009 Dare County Land Use Plan since the amendment will offer a list of uses that are reflective of the current uses in the Dare County zoning ordinance for similar commercial properties.

The Planning Board further acknowledges the intent of the MP-C commercial district is to provide for the proper grouping and development of commercial facilities to serve permanent and seasonal residents.

The Dare County Planning Board hereby recommends that the Martins Point Commercial District map and zoning text amendment be adopted.