



Dare County Planning Board Virtual Meeting
Meeting will be streamed live on YouTube

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

October 12, 2020

Agenda

- I. Call to order **6:00 PM**
- II. Roll call
John Finelli, Chairman
Michael Barr
Terry Gore II
David Hines
Beth Midgett
David Overton
Buddy Shelton
- III. Approval of minutes for the September 14, 2020 meeting
- IV. Public Comment

Public comment may be presented to the Board in advance of the meeting by sending an email to: dcplanningbd@darenc.com. Emailed public comments will be received by the Board until 4:00 PM on the day of the meeting.
- V. Old Business
 - a. Request for Extension of Preliminary Plat Approval for Cammie Daniels Subdivision, Wanchese, NC
- VI. New Business
 - a. Amendment to Existing Conditional Use Permit No. 8-2004, Black Dog Harbor, Salvo, NC
 - b. Sketch Plan Review, Jason & Tanya Hill, 4-Lot Subdivision, Colington, NC
- VII. Other Business
 - a. None
- VIII. Adjournment

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, September 14, 2020. This meeting was held in the Dare County Board of Commissioners meeting room located at the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

The meeting was streamed live on YouTube at: <https://youtu.be/taxaGI-xiHo>.

CALL TO ORDER 6:00 pm

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

MEMBERS ABSENT David Overton

APPROVAL OF MINUTES

There being no corrections or additions to the minutes of the August 10, 2020 meeting of the Dare County Planning Board, Michael Barr made a motion to approve the minutes as submitted. Terry Gore seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

-None-

OLD BUSINESS

-None-

NEW BUSINESS

Preliminary Plat Review, Payne Estates Section Four, Roanoke Island, NC

Timothy L. Fish, PE, PLS, of M2C Geomatics and Design, PLLC, was present on behalf of the property owner, Joyce Payne Bell.

Donna Creef read her staff comments. Ms. Creef said earlier this year, the Planning Board approved a seven-lot division for Joyce Payne Bell on Roanoke Island. Ms. Bell has submitted another preliminary plat that adds an eighth lot to the division. The proposed lot has frontage on Payne Rd, a State maintained road. The lot is 25,198 square feet in area, well in excess of the required minimum lot size. There are two

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existing structures depicted on the lot but the use of the structures is not noted. The structures are within the principal use setback of the R-2 zoning district.

Mr. Fish said the two buildings are storage buildings at this time and he will note the plat as requested by Staff.

Staff recommends approval of the preliminary plat.

Terry Gore made a motion to approve the preliminary plat. Buddy Shelton seconded the motion.

Vote: Ayes - Unanimous

OTHER BUSINESS

Continued Discussion of Travel Trailer Park Ordinance

Donna Creef read her staff memo. Staff recommends the following changes to the Travel Trailer Park and Campground Ordinance as follows:

1. The definition of all-weather surface has been deleted. This was deleted to avoid inconsistency. The ROADS standards require gravel improved roads.
2. Section 160.22 General Standards (O). Staff added language about retail sales and laundry facilities.
3. Section 160.22 General Standards for All PARKS (W). A reference to the NC Vacation Rental Act (VRA) has been added as instructed by the Planning Board at the August 10, 2020 meeting. It was consensus of the Board to include an occupancy restriction. The VRA uses 90-days as the benchmark to be considered a vacation rental.
4. Revised Section 160.24 Additional Standards for Camping Cabins, Alternative Camping Units and Camping Tents. To reflect last month's discussion on the size limitations for these units.
5. Section 160.26 Roads and Access. To reference NCDOT standards for cul-de-sacs and turnarounds.
6. Section 160.32 Camping Spaces at Commercial Sites. As currently drafted travel trailer sites and alternative camping units can be featured at commercial sites. Camping cabins are not allowed as part of a commercial development.

7. Added Section 160.51 Storm Response Plan (for PARKS developed after date of adoption). PARK owners will notify PARK guests if an evacuation order is ordered by Dare County.

The Board discussed usage of the Vacation Rental Act as referenced in Section 160.22 General Standards for All PARKS (W). Beth Midgett asked if tying the VRA to the 90-day or less requirement puts a burden on PARK owners to be licensed brokers. Donna Creef said Staff only referenced the tenure limitation of the Vacation Rental Act. David Hines said when you bring up the word Vacation Rental Act it may imply that we adhere to the Vacation Rental Act. Mr. Hines thinks the timelines are good. Ms. Creef changed the proposed language in the draft to read as: The length of occupancy of any travel trailer, camping cabin, and alternative camping units and or camping tent shall be consistent with the timeframe established in the NC Vacation Rental Act. Chairman Finelli stated the draft should state the number of days so it can be easily understood without having to read the VRA. Donna Creef said she will note 89-days in the draft.

The Board discussed 160.01 Permits. Terry Gore said an LLC or entity should be considered. Donna Creef said she will change the language to include person or entity.

The Board discussed 160.22 General Standards for all PARKS (Q). Chairman Finelli said there should be an exclusion to apply to the employees of the PARK.

The Board discussed 160.32 Camping Spaces at Commercial Sites (A). Chairman Finelli asked the Board if the minimum of twenty camping spaces is the right number for travel trailer and alternative camping units. The Board agrees with twenty minimum camping spaces for commercial sites. Chairman Finelli additionally confirmed the Planning Board is in agreement that camping cabins should be part of a group development.

The Board discussed 160.32 Camping Spaces at Commercial Sites (F). David Hines said language should read as: Camping spaces shall not be individually conveyed or sold in fee simple title, as condominiums or for interval and or fractional ownership. The Planning Board indicated consensus with adding fractional ownership to this section.

The Board discussed 160.51 Storm Response Plan. Terry Gore discussed commercially reasonable effort and how it could apply to PARK owners. Chairman Finelli said he likes the wording in the current draft. He said he does not want to place an enforcement burden on the Planning Department that already exists somewhere else in Dare County such as the Sherriff. He does not want to shift that burden. Mr. Finelli

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added that Ms. Creef has stated that Travel Trailer Parks in existence before the ordinance will not be grandfathered and may not be subject to this. Michael Barr thinks if you step into enforcement you also take on liability. Mr. Barr said it should be the responsibility of the PARK owner to develop a plan and not for Planning Staff to enforce it. Terry Gore proposed the language should read: Each PARK owner shall develop a storm response plan of commercially reasonable actions that will be taken before, during and after storm events. In the event, evacuation orders are issued by Dare County, the PARK owner shall make a commercially reasonable effort to notify PARK guests of the order. Beth Midgett added that it should be a recorded effort – they will have to keep notes. Donna Creef advised the Board against using language in the ordinance that implies that Dare County has a responsibility other than the mandatory evacuation. Ms. Creef said that is what Emergency Management does. She added if Emergency Management is concerned about travel trailers in the campgrounds they will advise PARK owners to have a plan to get their people out and not Dare County Planning Staff through the campground ordinance. This is not the vehicle to do that.

Chairman Finelli said the Chair would entertain a motion to amend Section 160.51 Storm Response Plan. Hearing none. Section 160.51 text will proceed unchanged from the current draft.

The Board discussed a text amendment for the C-3 Zoning District for Section 160.32 Camping Spaces at Commercial Sites. Ms. Creef said the C-3 District does not specifically outline Campgrounds and Travel Trailer PARKS as a permitted use.

David Hines made a motion to recommend approval of the Text Amendment to include PARKS as a permitted use in C-3 to include a finding of consistency with the 2009 Land Use Plan update. Michael Barr seconded the motion.

Vote: Ayes – Unanimous

Michael Barr made a motion to recommend approval of the Travel Trailer PARKS and Campground Ordinance as modified by Staff to include a finding of consistency with the 2009 Land Use Plan update. Buddy Shelton seconded the motion.

Vote: Ayes - Unanimous

This matter will proceed to the Board of Commissioners for their review at the October 5, 2020 meeting.

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ADJOURNMENT

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

Vote: Ayes – Unanimous

The meeting adjourned at 7:03 p.m.

Respectfully Submitted,

Andrea DiLenge
Planning Board Clerk

APPROVED: October 12, 2020

John Finelli
Chairman, Dare County Planning Board



County of Dare

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

October 5, 2020

MEMORANDUM

TO: Dare County Planning Board

FROM: Donna Creef *Donna*

RE: Chris and Cammie Daniels Subdivision Extension Request

Seaboard Surveying on behalf of Chris and Cammie Daniels has submitted a letter requesting a twelve month extension of the preliminary plat approval granted to their division in November 2019. The Subdivision Ordinance allows for an extension if requested before expiration of the preliminary approval and if work has begun on the improvements. The letter from Ray Meekins indicates engineering work on the water line improvements is underway. I recommend an extension be granted.




County of Dare

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

October 5, 2020

MEMORANDUM

TO: Dare County Planning Board

FROM: Donna Creef 

RE: Black Dog Harbor CUP Amendment Request

Black Dog Harbor is a group development in Salvo that was originally approved in 2004. Mike Flipczak, the current owner of the development, purchased the property in 2014. The original CUP includes the following conditions:

Condition #6 – No commercial activities shall take place on the site.

Condition #7 - The boat basin, boat ramp and boat slips shall be for the exclusive use of the property owners and residents of the development. Fuel services and fuel storage may be provided on site for the property owner and guests. No commercial fuel sales or storage shall be allowed on site.

Mr. Flipczak is requesting condition 6 be amended as follows:

Revised Condition 6 – Commercial activities shall be limited to two charter boats used for fishing or cruising whose customers and crew shall park in the designated overflow parking spaces in Black Dog Harbor. These charter trips shall be limited to the hours of 6:00 AM to 10:00 PM and shall require annual approval by the Black Dog Harbor Owners Association.

Revised Condition #7 – The boat basin, boat ramp and boat slips shall be for the exclusive use of the property owner, residents of the development and their guests.

The property is zoned S-1 and all uses are permitted in this district. If the property was vacant and a request to use the small harbor as a commercial marina was submitted, then the County would authorize the request because of the S-1 zoning. The request from Mr. Flipczak is for the commercial use of two of the boat slips for fishing and touring charters with specific hours of operation. Existing overflow parking spaces will be used by the charter boat crew and clients. Last year, we had issues with a charter boat using the marina contrary to the current terms of the conditional use permit. Duck hunters were using the slips and leaving earlier than 6:00 a.m. In discussing the request with Mr. Flipczak, he does not plan to contract with any hunting charter services since their departure hours would be earlier than 6:00 a.m.

Currently there are some crepe myrtle bushes planted along the southern property line that were planted by the original developer. The S-1 district requires a visual buffer at commercial sites that adjoin residential sites. With the introduction of charter services at the boat slips, I recommend some additional vegetation or solid fencing be added along the southern property line. Other areas for potential buffering should be discussed with Mr. Flipczak.

The language in condition 6 prohibiting commercial fuel sales and storage was negotiated with the original developer of the site in 2004. It was intended to preclude the use of the harbor as a commercial marina providing fuel services to the boating public. I recommend the Planning Board discuss this language with Mr. Flipczak again.

Cc: Mike Flipczak







Donna Creef, CFM
Planning Director, County of Dare
PO Box 1000
Manteo, NC 27954

RE: Black Dog Harbor
Salvo, NC

Subj: Conditional Use Permit Change

Hi Donna.

I am writing to you today as President of the Black Dog Harbor Owner Association. In follow up to recent emails, below are two changes that the Owner Association would like to make to the Black Dog Harbor Conditional Use Permit No. 8-2004, attached for reference. I intend to submit supporting materials by September 21, 2020 for inclusion on the agenda for the October 12, 2020 planning board meeting.

Modify Condition 6. from "No commercial activities shall take place on the site." to "Commercial activities shall be limited to two charter boats used for fishing or cruising whose customers and crew shall park in the designated overflow parking spaces in Black Dog Harbor. These charter trips shall be limited to the hours of 6AM to 10PM and shall require annual approval by the Black Dog Harbor Owners Association."

Modify Condition 7. from "The boat basin, boat ramp and boat slips shall be for the exclusive use of the property owners and residents of the development." to "The boat basin, boat ramp and boat slips shall be for the exclusive use of the property owners, residents of the development and their guests."

All other terms and conditions of CUP No. 8-2004 shall remain the same.

With reference to CAD File P657 AB prepared by Coastal Engineering and Surveying dated 7-8-2016, attached, I would like to address the County's concerns over vehicle parking and boat slips.

Vehicle Parking

One of the issues that we have discussed is the availability of vehicle parking for charter boat captains and their guests within the neighborhood but specifically not at individual houses, not on the street, not in the emergency vehicle turnaround and not in the boat ramp. There are a total of 8 existing overflow parking spaces at Black Dog Harbor, four north of Lot#1 and four between lots 9 and 10. The charter trips are typically the captain and up to four people who tend to drive together, so there would typically be two cars per boat. If two charter trips happen to

overlap we would expect four parking spaces to be used, leaving four additional overflow spaces.

A further question has been raised whether the remaining four overflow spaces would be sufficient for the owners and guests of the houses. In general, we are building smaller houses than the six bedroom houses envisioned in the site plan. Also we are building the houses with substantial space and height underneath so we believe we are gaining parking spaces with each house that we build. The following table summarizes the number of bedrooms and available parking spaces at each house built to date.

	No. Bedrooms	No. Parking Spaces
Lot 1	4	7
Lot 2	4	7
Lot 3	4	7
Lot 4	4	6
Lot 5	<i>No house built</i>	
Lot 6	<i>No house built</i>	
Lot 7	6	9
Lot 8	4	6
Lot 9 (planned)	4	7
Lot 10	<i>No house built</i>	
Lot 11	<i>No house built</i>	
Lot 12	<i>No house built</i>	
Caretaker's Cottage	2	2

As the above table indicates, we currently have 19 more parking spaces than bedrooms at the houses built to date. We believe this trend of creating additional parking spaces will continue when Lots 5,6,10,11 and 12 have houses built on them. In addition to these 19 parking spaces, we have the following additional onsite parking options that could be utilized, if needed:

- One in front of the barn, pavers installed
- Six east of lot 1, on the repair area, grass

I would consider these secondary choices to utilizing the existing overflow spaces which already exist and have a paver surface.

Boat Slips

With reference to the attached partial drawing P657 SP by Coastal Engineering and Surveying dated 8/14/15 and referenced CAMA Permit 94-05, updated in 2009, the existing basin is permitted for a total of 10 boat slips. Much to my surprise, as the neighborhood has grown, there is only occasional demand for any boat slip from homeowners or rental guests. As such, the HOA would plan to utilize the two existing boat slips at the existing dock (marked as 1 and 2 on the partial drawing) for the charter captains. Other occasional boats can utilize the two finger piers at the boat ramp. The additional eight boat slips allowed by CAMA will be constructed by the HOA when there is a need.

On a general note we believe that there is nothing more in keeping with the historical use of the harbor property than to have a local charter captain utilizing it to run a micro business which benefits the County, homeowners, the HOA and guests. In addition, the boat traffic will help to preserve the navigable channel and entrance to the harbor for future generations.

Please call me at 443-463-1450 should you have any questions on this request otherwise I look forward to seeing you at the planning board meeting on October 12, 2020.

Best Regards,
Black Dog Harbor Owners Association

Michael Filipczak,
President



Conditional Use Permit No. 8 -2004

Dare County Sections 22-27.1; 22-31; and 22-68.

Application of: Sapphire LLC for Aaron Hill Harbour, a group housing project in Salvo, NC.

On January 18, 2005 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 Board as required by Section 22 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 conditional use permit under the Code, including group housing developments;
3. That the Petitioner owns 9.77 acres of property located in Salvo, NC and identified on the Dare County Tax Records by Parcel Identification Numbers (PINs) 064608892658 and 064608893867. The property is zoned S-1.
4. That the Dare County Planning Board recommended for approval the granting of a Conditional Use Permit as requested. The Planning Board made this recommendation on November 13, 2004;
5. That the Dare County Board of Commissioners is empowered under sections of the Code set out above to grant uses such as allowed herein and insofar as the conditional use is hereinafter allowed it will not adversely affect the public interest;
6. That the hereinafter described conditional use is deemed to be reasonable and is not in degradation of the intent of the ordinance.

NOW, THEREFORE, under the provisions of the Code, the following conditional use is granted to Sapphire LLC for the construction of a group housing development, subject to such conditions as are hereinafter set out:

CONDITIONAL USE: an 11-unit residential group housing development, boat basin, clubhouse, street and parking improvements, and wastewater system. A site plan, as approved by the Board of Commissioners depicting the location of the residential units and other site improvements is identified as Appendix B, attached to and made a part of this Permit.

CONDITIONS:

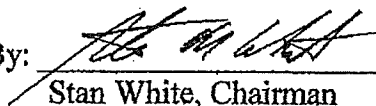
1. The residential units shall consist of a maximum of 6 bedrooms each. Individual parking spaces shall be provided for each unit as depicted on the site plan. The dimensional and separation requirements of Section 22-31 shall be met. The maximum building height shall be 52 feet as permitted under the S-1 zoning district regulations. All structural improvements (including pools, spas, and decks) shall be located within the 40' x 60' footprint provided for each residential unit.
2. An as-built survey of the infrastructure improvements shall be submitted to the Planning Department upon completion of the improvements. Individual as-built surveys for each residential unit shall be submitted before the final inspection of each unit is completed by the Dare County building inspector.
3. All impervious road improvements shall be constructed to pavement design standards of the NC Department of Transportation and verified by an independent consultant once the road improvements are completed.
4. All infrastructure improvements shall be completed within one year from the date of Board of Commissioner approval.
5. No work on the installation and construction of the road improvements, waterline improvements, wastewater treatment system, residential units or other improvements associated with this project shall commence until all State and Federal permit have been secured by the developers. This includes but is not limited to the Division of Land Resources sedimentation and erosion control permit and the Division of Water Quality stormwater management permit. This does not preclude the demolition, relocation or remodeling of any existing structure on the site or site preparation work that is exempt from State regulations.
6. No commercial activities shall take place on the site.
7. The boat basin, boat ramp and boat slips shall be for the exclusive use of the property owners and residents of the development. Fuel services and fuel storage may be provided on site for the property owner and guests. No commercial fuel sales or storage shall be allowed on site.
8. A buffer shall be provided along the northern and southern property lines as depicted on the site plan included with this CUP. This buffer shall be constructed at the same time as the other infrastructure improvements are constructed and be in place within one year of the date of Board of Commissioners approval.

9. The property owners of the group housing development shall be responsible for the maintenance of the road improvements and stormwater improvements. Homeowners documents shall address the maintenance of these improvements and an escrow fund for the maintenance of the stormwater improvements shall be established and administered by the homeowners association.
10. It is understood that all other terms and provisions of the Code shall remain in full force and effect except as herein lawfully permitted;
11. A violation of this Permit shall be a violation of the Code punishable as therein provided, and shall automatically void Permit.

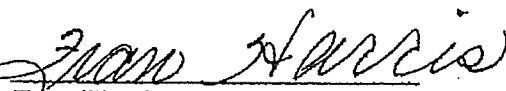
This 18th day of January 2005

SEAL:

COUNTY OF DARE

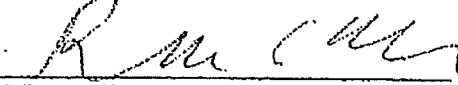
By: 
Stan White, Chairman
Dare County Board of Commissioners

ATTEST:

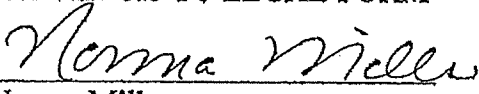
By: 
Fran Harris
Clerk to the Board

THIS PERMIT AND THE CONDITIONS HEREIN ARE ACCEPTED

Sapphire LLC

By: 
Rick Willis

APPROVED AS TO LEGAL FORM

By: 
Norma Mills
County Attorney



**2015 AMENDMENT TO CONDITIONAL USE PERMIT #8-2004
FOR BLACK DOG HARBOR (formerly AARON HILL HARBOR) GROUP HOUSING
DEVELOPMENT**

On October 5, 2015, the Dare County Board of Commissioners considered an amendment to the conditional use permit for the Black Dog Harbor group housing development in Salvo, NC. The original CUP was issued to Sapphire LLC in January 2005 by the Dare County Board of Commissioners.

On September 14, 2015, the Dare County Planning Board reviewed the proposed amendment and recommended approval of the amendment.

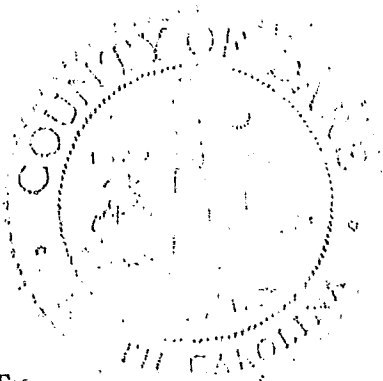
The following revisions shall be made a part of CUP 8-2004 as detailed below:

1. The CUP amendment shall be revised to reflect the current owners of the property, Salvo West LLC and the name change to Back Dog Harbor.
2. The existing clubhouse structure is authorized for use as a two-bedroom apartment for on-site management of the property. Modifications to this structure shall be compliant with the Dare County Flood Damage Prevent Ordinance. Two 10' x 20' parking spaces for the structure shall be provided as depicted on the site plan dated 7-16-2015 prepared by Coastal Engineering attached to and made a part of the CUP amendment.
3. The emergency turnarounds at the site shall be modified as depicted on the site plan dated 7-16-2015 prepared by Coastal Engineering. These modifications shall be completed before any additional building permits are issued for any structure in the group development or no later than June 30, 2016 whichever occurs first. Once the modifications are complete, an as-built survey of the emergency turnarounds shall be submitted to the Dare County Fire Marshal for approval. No parking signs shall be installed as required by the Fire Marshal.
4. A revised plat of record shall be recorded in the Dare County Register of Deeds depicting homesite 12 and all existing improvements that were previously installed as part of the original CUP and those improvements that will be installed in conjunction with this site plan labeled as Appendix B. The plat of record shall also include the typical parking layout for the homesites that were depicted on the plat recorded in the Dare County Register of Deeds Map Cabinet G Slide 208.

5. All supplemental State permits for wastewater and stormwater shall be amended as needed to reflect these revisions.
6. All other conditions included in the original CUP shall remain in force and part of this amendment.

This 5th day of October 2015

SEAL:



COUNTY OF DARE

By: Robert L. Woodard

Robert L. Woodard, Chairman
Dare County Board of Commissioners

ATTEST:

By: Gary Gross

Gary Gross
Clerk to the Board

THIS PERMIT AND THE CONDITIONS HEREIN ARE ACCEPTED

Mike Flipczak
Mike Flipczak
Salvo West LLC

APPROVED AS TO LEGAL FORM

By: Robert L. Outten

Robert L. Outten
County Attorney

Conditional Use Permit

Black Dog Harbor (BDH) has not complied with the existing Conditional Use Permit (CUP) since they were formed in 2012 and have consistently exceeded the commercial permit for which they are currently applying. See attached pictures of commercial duck guides and the charter, "Chocolate Lab". Further, as reflected on the attached advertisement from "Aquaholics", Laurianne Brickner stated that the rental of "Aquaholics", not part of BDH, includes "access to the amenities of 'Black Dog Harbor', located two lots south. Enjoying fishing, kayaking, paddlboarding from the private harbor, dock and gazebo -- including free kayaks".

There needs to be a period of time (years) when BDH actually complies with the existing CUP so we have some assurance the managers have decided to comply with the rules of the Dare County Board of Commissioners/Planning Board.

According to the attached email dated April 9, 2020, the argument that they did not know the terms and conditions of the existing CUP is disingenuous considering we have been told Laurianne Brinkner (partner of Michael Flipczak) is or was an Attorney and she is currently a North Carolina licensed real estate professional. We also believe Michael Flipczak is an engineer or related professional.

At some point in the future, a limited commercial CUP may be feasible on a probationary basis, once it is demonstrated BDH can comply with the rules and uses as set forth by this Planning Board and the environmental concerns are addressed.

Environmental impact

The odds of fuel spills increases substantially with a boat being fueled in the harbor and being active every day. Virtually all recreational boaters fuel before they arrive at BDH.

Only one foot of water exists outside the harbor according to NOAA Chart 11555. Will daily use have an adverse environmental impact on the sound?

Customers will be arriving very early in the morning. Light and noise will be disquieting. In the past the duck hunters would arrive at 5:00AM. The diesel trucks, lights and shouting were extremely disturbing. I am concerned this will be a continuing problem with a commercial Conditional Use Permit.

Parking and Traffic

The attached photos reflect there is not enough parking, especially with new houses being built.

Traffic is also a concern since the amenities, often used by young children, are spread across the development. The basketball court and the corn hole game (which I realize is movable) are next to the road.



John Fort

Re: Your complaints about Black Dog Harbor

message

A Brickner
to: John Fort

Thu, Apr 9, 2020 at 2:06 PM

With regard to not allowing guests (like Aquaholic's guests, or the police officer or other locals by invitation), the specific wording of the Conditional Use Permit is that it's for the use of "property owners and residents" of Black Dog Harbor. In her letter, she says, "The use of Black Dog Harbor boat basin, boat ramp and boat slips by residents or guests of other properties should be discontinued also". Our reasoning was that since we are owners at the harbor, we could invite Aquaholic's renters as our guests. That is a reasonable interpretation -- but it has since been clarified, and with this strict interpretation, since the police officer resides outside of the harbor, he cannot use the property as our guest.

We are considering asking for a modification of the CUP, since this is needlessly restrictive. We have no intention of inviting the duck hunters back -- they only worked out for us when the harbor was otherwise undeveloped, and we appreciated that they did some maintenance, kept and eye on things and also provided much-needed boat traffic to keep the harbor channel open. We had intended to allow one charter captain as our guest for the same reason -- to provide continuous monitoring of the harbor and boat traffic, when the boat slips are otherwise not in demand. We will no longer allow that unless the CUP is modified because we intend, as always, to operate with integrity.

On Thu, Apr 9, 2020, 1:09 PM John Fort

I thought you were more familiar with the permit. When I told you there were duck hunters several years ago, I assumed (by mistake) that you knew that violated the CUP. Also learned this year that some of the duck hunters were guides--which again is commercial use.

As to casual fishing by your friend, I do not see how that violated the permit or anything else. I was actually just trying to be nice letting you know someone drove behind your house. As deserted as it is right now, any activity on your property is good.

Glad you have cameras--I will no longer concern myself with people pulling in and looking around.

Stay safe. I know you are anxious to get back on the island.

John

On Tue, Apr 7, 2020 at 6:47 PM L A Brickner

wrote:

John,

I appreciate the response. I am re-reading the statement that you quoted and wondering why you see it as harsh. You clearly have questions about how we run our business, enough so that you complained to the county and others.

Rather than leaving you to speculate, I merely tried to clarify why and how we were interpreting the use permit and what changes we have made to comply. I sent this to you directly because you were concerned enough to complain to the county and others without approaching us for clarification and remediation.

Other than complaining about the trash -- which you complained about only after it caused you duress and hours of your time to clean up, the only other complaint we heard from you was about the trees. We immediately sent our landscaper to trim the trees, even though she noted that they have absolutely nothing to do with your drainage problems and if anything, remove some of the water with their roots.

I do empathize with your drainage problems that you say are caused by the harbor. We have no way of remedying this or addressing this issue and we certainly have not contributed to it. I know you fought against this development because of how it could impact your property, but we were not involved in the original development and are not to blame.

I appreciate your efforts to keep an eye on the harbor. We also have cameras set up and are aware of people who use the harbor. The person that you mentioned from today, for example, is a local police officer who also picked up some packages that were delivered to the harbor. I have allowed him to fish there because he keeps an eye on the area but due to the recent clarification by Donna Creef, we will have to tell him that he cannot fish from the harbor as our guest. It makes me feel like less of a good neighbor to him.

On Tue, Apr 7, 2020, 5:30 PM John Fort

wrote:

I do not think you understand. As we have been told, between you and Mike we have a realtor, lawyer and engineer yet you did not understand the conditional use permit?

The trash has been a problem, but has gotten better.

We still get flooding from your property and have tried to be nice about it (remember my email about the trees that border our property?). We were assured when the subdivision was developed there would be zero flooding because all the water would be diverted to the wetland to the west. Guess what?

The island is rather bare at the moment so we have been keeping an eye on your property. A couple of trucks have pulled in and looked at the kayaks. We stand on the deck and make sure they see us. Right now someone pulled behind your else to fish. Likewise, we will keep an eye out.

Sorry you feel this way "I hope this satisfies your curiosity and concerns about the harbor area and our business".

That statement was rather harsh to people that have caused zero problems for you and have been good neighbors.

Stay safe.

John

On Tue, Mar 31, 2020 at 3:52 PM L A Brickner

John and Patricia,

wrote:

We are very aware that you are not happy about the development that is currently going on next door to you. However, the county approved the subdivision years before we got involved, so I hope that you will recognize our efforts to be good neighbors.

We have made every effort to clean up the harbor as soon as possible, both with storms and with construction debris. Our contractor installed temporary fencing and with windy conditions, we know sometimes debris can be a problem but he has assured us that he is more than willing to send someone to clean up debris when we are made aware of it. Note that construction on lot 8 (next to Harbormaster) is not our contractor and if you have issues with them, contact Rick Albaugh. We are also keeping up with the landscaping, including beautification of the sidewalk area, and in that respect we have definitely improved the area.

We have also responded to Donna Creef's letter regarding the use restrictions, about which I believe you are aware. We had every intention of discontinuing the duck hunters this year, since the harbor is now more developed. We also did not see a negative impact from the charter captain that was at Black Dog Harbor. We interpreted the permit so that guests of owners could use the harbor -- hence Aquaholic and Hooper House guests, plus locals that we invited to use the harbor. We thought that administration of the rules was subject to the Homeowner's association interpretation, which would become more restrictive as the harbor became more developed. Donna has clarified that the harbor can only be used by owners and guests *who are staying at Black Dog Harbor* and we will comply.

I hope this satisfies your curiosity and concerns about the harbor area and our business.

Healthy regards,
L.A. Brickner
Salvo West LLC

VRBO.com "Aquaholic"

L. A. Brinkner

Luxury Soundfront w/Panoramic Views! Theatre Elevator Pool Hottub Gameroom

Property overview

Salvo, NC, USA

- House 5000 sq. ft.
- Sleeps: 18
- Bedrooms: 7
- Bathrooms: 9
- Min Stay: 3–7 nights

Premier Partner Instant Confirmation Good for families Hot Tub Pool Air Conditioning

7 Bedroom suites, Luxury amenities, stunning sunsets, close to beach

Water enthusiasts will enjoy 'Aquaholic', a stunning 7 master bedroom soundfront home with all the amenities. Enjoy beautiful sunsets and front-row views of the kite boarders, wind surfers and sailboats that dot the sound, or just experience the starry night sky and the calm of the salt marshes.

The beach is less than a quarter mile away, visible from our balconies and a short walk or bike ride way. Your rental also includes access to the amenities of 'Black Dog Harbor', located two lots south. Enjoying fishing, kayaking, paddlboarding from the private harbor, dock and gazebo -- including free kayaks.







SUBDIVISION FACTSHEET
Planning Board – Sketch Plan Review

NAME: Jason and Tanya Hill Subdivision

LOCATION: Kill Devil Hills Outside Tax District

SITE SPECIFICS: Total site area: 5.1 acres (developable area 1.85 acres)

Number of proposed lots: 4

Smallest lot area: 15,007 square feet

Site Zoning: R-2B Residential

STREETS:

The level of road improvements will be discussed with the Planning Board. The property includes a large area of wetlands that will not be developed. As noted on the plat, only 1.85 acres will be developed into lots. There is an existing private road along the west side of the parcel that accesses several other properties but the Hills have not been able to come to terms with the other property owners along the road to use the road as part of the division. The existing house depicted on lot 1 is accessed from Colington Road. The Subdivision Ordinance provides for exceptions to the minor subdivision road requirements for properties that “involve” three acres or less. Since the majority of the property is wetlands, I recommend we review this division as an exception with gravel improvements and a turnaround provided as depicted on the sketch plan. The construction of a 30-foot wide road with 20 feet of paved improvements seems excessive for the associated level of development. In exchange for the application of the minor subdivision exception language, I recommend the restriction on a maximum number of four bedrooms as set forth in the Subdivision Ordinance and that the wetland areas of the tract be dedicated as a conservation easement by the Hills.

UTILITIES:

1. Water: Dare County central water system
2. Sewer: Individual on-site septic tank/drainfield systems.
3. Stormwater: no State permit required but additional information on stormwater will be needed as part of preliminary review. Coordination with NCDOT will be needed for connection to SR 1217, Colington Road.

STAFF COMMENTS

There is some proposed filling of 404 freshwater wetlands associated with lot 4. The necessary permits for the fill work will be submitted as part of the preliminary plat approval work.


Donna Creef

10-5-2020
Date

[Print](#)

Dare County, NC Code of Ordinances

§ 153.20 MINOR SUBDIVISIONS.

The following standards shall apply to minor subdivisions:

(A) *Minor subdivision.* A residential subdivision that involves the platting and recordation of 6 or less lots. Lots platted and recorded as part of a minor subdivision shall be limited to single-family residential use, and shall not be used for commercial or industrial purposes, regardless of the applicable zoning district or other land use ordinances. This residential limitation shall not be intended to preclude the location of mobile homes or modular homes on lots developed as part of a minor subdivision, if these structures are permitted in the applicable zoning district. This residential limitation shall not be interpreted to preclude the location of home occupations or other commercial accessory uses that may be permitted in certain zoning districts in unincorporated Dare County.

(B) *Streets.* All street improvements in a minor subdivision shall consist of a minimum of a 30-foot-wide right-of-way, with 18-foot-wide paved improvements located internal to this right-of-way area. The paved improvements shall be constructed to the sub-base and base material specifications and other design criteria of the North Carolina Department of Transportation. Roadside swales for the purpose of stormwater retention and/or drainage shall be installed within the right-of-way. The maintenance of the street improvements and swales, once installed, shall be the responsibility of the abutting property owners. A certificate establishing the maintenance responsibility for the street improvements shall be included on the final plat, and such information shall also be conveyed to purchasers of the lots as a feature of the deed to such lots.

(1) *Statement, inspections and certificate.* The subdivider shall submit, as a part of the preliminary plat, the signed statement of a North Carolina-licensed professional engineer, stating that the proposed streets, as designed, will meet all of the requirements of this section. The subdivider shall provide for inspections to ensure that the streets are being constructed in accordance with the approved preliminary plat, by an independent, licensed professional engineer during the construction process, whose reports are to be submitted to the Planning Board in accordance with a schedule submitted and approved as part of the preliminary plat. As a part of the final plat, the subdivider shall submit a certificate of an independent, licensed professional engineer that the streets have been constructed in accordance with the approved preliminary plat.

(2) *Street standards.* Street improvements approved and recorded as part of a minor subdivision shall not be used as access for other property or other development unless the streets are improved to a level consistent with the street standards of § 153.40(A)(1).

(C) *Lot size.* For zoned areas, all lots in a minor subdivision shall meet the minimum lot size requirements of the applicable zoning district. For unzoned areas, lots served by a central water supply shall contain 15,000 square feet of area, and lots served by individual private wells shall contain 20,000 square feet of area.

(D) *Density limitation.* All habitable structures built in minor subdivision residential lots shall be limited to a maximum capacity of 4 bedrooms or bedroom equivalents (as defined by the Dare County Environmental Health Department) and/or wastewater capacity not to exceed 480 gallons per day.

(E) *Utility locations.* Easements for utilities shall be established along the front of each proposed lot. Such easements shall be a minimum of 15 feet, and shall be depicted on the final

plat and clearly demarked as utility easements. No other structural improvements, other than driveway improvements, may be located within the designated utility easement area.

(F) *Plat certificates.* The following certificates shall be included on all minor subdivision plats that are recorded in the Dare County Register of Deeds office:

(1) *Minor subdivision certificate.*

Minor Subdivision Certificate

This subdivision has been approved as a minor subdivision under the standards of the Dare County Subdivision Ordinance. The lots in this subdivision shall be used for single-family residential purposes, and shall be limited to a maximum of 4 bedrooms or bedroom equivalents (as defined by the Dare County Environmental Health Department) and/or wastewater capacity not to exceed 480 gallons per day. This residential limitation for minor subdivision lots shall not preclude the location of home occupations or other commercial accessory uses as may be permitted in certain zoning districts in unincorporated Dare County. Maintenance of all infrastructure improvements, including roads and swales, shall be the sole responsibility of the property owners.

(2) *Certificate of ownership.*

Certificate of Ownership

I hereby certify that I am the owner of the property shown and described hereon, which is located in the regulatory jurisdiction of the County of Dare, and that I hereby adopt this plan of subdivision with my free consent. I hereby dedicate all water lines to the County of Dare.

I, _____, hereby certify that _____ personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and official seal this the ____ day of 20__.

_____ (official seal)

Signature

State of North Carolina

County of _____

(3) *Certificate of approval for recording.*

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Ordinance of Dare County, and that this plat has been approved by the Dare County Planning Board for recording in the Office of the Register of Deeds of Dare County.

_____ Dare County Subdivision Administrator _____ Date

(4) *Review officer certificate.*

Review Officer Certificate

State of North Carolina

County of Dare

I, _____, Review Officer of Dare County certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Date Review Officer

(5) *Certificate for acceptance of dedications.*

Certificate for Acceptance of Dedications

I certify the acceptance of the dedication of roads, easements, rights-of-way, public parks, and other sites for public purposes, as shown hereon, but assume no responsibility to open or maintain same until in the opinion of the governing body of Dare County, it is in the public interest to do so.

Dare County Manager Date

(6) *All appropriate and applicable certificates for the registered land surveyor/professional engineer.*

(G) *Other subdivision standards.* All other standards of the Dare County Subdivision Ordinance shall apply except as specifically exempted in the above section.

(H) *Exceptions.* For minor subdivisions that involve a total acreage of 3 acres or less, an exception to the minor subdivision road standards may be granted, if the following conditions may be met:

(1) A perpetual easement shall be recorded to provide access to the proposed lots. Such easement shall not be less than 20 feet in width, and the level of surface improvements for the easement shall be sufficient to carry the weight of fire trucks and sanitation service vehicles. The easement shall not be used for access to other developments or properties.

(2) A maneuvering area shall be provided for emergency and service vehicles. This area may be provided on each lot or as a common area shared by the proposed lots. Such area shall not be used for other purposes.

(3) Additional easements as needed for stormwater and utility improvements shall be provided on the individual lots.

(4) It shall be acknowledged on the plat that individual solid waste service and school bus pick-up service may not be available due to the lack of improved street improvements.

All other standards for minor subdivisions shall apply.

(Ord. passed 9-2-2008; amended 3-21-2011)