

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, June 8, 2015. This meeting was held in the Dare County Board of Commissioners meeting room located at the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

CALL TO ORDER 7:00 pm

MEMBERS PRESENT Elmer R. Midgett, Jr., Chairman
Michael Barr David Overton
John Finelli Charles Read, Jr.
Beth Midgett Richard "Ricky" Scarborough, Jr.

MEMBERS ABSENT -None-

APPROVAL OF MINUTES

There being no corrections or additions to the minutes of the May 11, 2015 meeting of the Dare County Planning Board, Michael Barr made a motion to approve the minutes as submitted. David Overton seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

-None-

OLD BUSINESS

Public Hearing – Proposed Text Amendment, Section 22-27.9, Baumtown Traditional Zoning District, Dominic Polidoro

Lorraine Tillett is a property owner and resident of Wanchese. She opposes the request to amend the Baumtown Traditional Zoning District. An airsoft course is an outdoor recreation that is not in keeping with the coastal village lifestyle. Employees and children at an airsoft club will need restrooms and parking on site. The applicant hasn't sought pre-approval from the Health Department for the site or pre-approval from NCDOT to provide an entrance from NC 345. This amendment will affect the entire Baumtown district and would allow someone else to set up an airsoft course. There are commercial areas suited for such activities. In 2007, the Dare County Board of Commissioners was presented an award for the Wanchese Zoning District by the State of North Carolina. They should preserve and protect our fragile lands and our family fishing village.

Margaret Joy Toler is a property owner and resident of Wanchese. She supports the text amendment to allow a private club airsoft course.

Jewel Mavrommatis is a property owner and resident of Wanchese. She supports Mr. Palidoro's endeavor to provide a recreational site on the highway leading to Wanchese.

Kim O'Malley owns the property where Mr. Polidoro proposes to locate the private club airsoft course. She has been an educator for 33 years. She believes this is good for the community. Ms. O'Malley's entire family lives in Wanchese. She said if the issue is how attractive the club will be then that can be addressed.

Winkie Silver, a Wanchese resident and property owner in the Baumtown district, said almost 2 years of work was spent developing a comprehensive zoning plan for Wanchese. The plan provided multiple districts to reflect the needs and wants of the residents. He encouraged everyone to read and understand the district zoning regulations. To make a zoning text amendment that doesn't meet the overall zoning requirement, or the consensus of approval of the district residents, would set an irreversible precedent for the community and the district. The benefits to and the detriments to the residents and the community should be addressed. Will the proposed amendment benefit the residents now, in the immediate future, and long range? That should be our concern.

Cynthia Arendts is a property owner and resident of Wanchese. She opposes the text amendment to allow this recreational site and asks that the Planning Board not approve it. She does not want this activity in her neighborhood. She believes guns of any kind should be used with caution and does not think "play shooting" is healthy for our neighborhood or county. Ms. Arendts is also concerned about stray shots outside of the course, the potential for a player to be bitten by a snake, and the possibility that a player may participate under the influence. She asked, on behalf of the children, that this recreation not be allowed.

Dominic Pollidoro, the applicant's son, said the airsoft course will give him something to do that teaches you strategy and is fun.

Matthew Falsciano is employed by the applicant. He would like everyone to know that airsoft is more of a sport and doesn't teach how to kill people. He believes people in Dare County misunderstand that. Mr. Falstiano said we need the airsoft club as a recreational activity for the community.

Lillie Button Daniels is a property owner and resident of Wanchese. Ms. Daniels worked on the committee that developed the Wanchese zoning districts. Their philosophy was to come to a consensus of wants and needs for the neighborhoods in the village. Ms. Daniels believes our goal should be to provide the children of Dare County an activity that is organized and complies with safety and well-being. Teaching people to use guns correctly will eliminate problems. Because this use was not listed originally in the wording of the Baumtown Traditional Zoning regulations does not mean it should not be considered. She is in favor of this activity and would like to try it herself.

Sarah Henson spoke in support of the airsoft course because she thinks it would be fun and provide something to do in the community.

Angelina Polidoro, the applicant's daughter, said a lot of kids live in Wanchese and this would be something fun for them to do.

Phillip Quidley Foreman is a property owner and resident of Wanchese. He attended Wanchese zoning meetings and worked with his neighbors to ensure that Baumtown would keep its traditional, small charm. If a new business is going to open it must be owned by the property owner who must also live at the property. This shouldn't be a commercial district. That would ruin what has been established. Playing games with toy guns shouldn't be done near a street. Accidents on Mill Landing Road have destroyed lives. Children may do stupid things and this may give them the opportunity to shoot at cars. Airsoft and paintball can travel 400 feet. They are not neighborhood toys, they are weapons.

David Light spoke supporting the applicant's request. Mr. Light said there are safety barriers to stop the airsoft BBs from going onto the highway. Kids already play this in their backyards. Airsoft does not train kids to hurt each other. The location is outside of the residential area of Baumtown and a good way from Baumtown Road.

Angel Polidoro is the applicant's wife and a local family physician. She said their children, and many other children, enjoy airsoft. It promotes teamwork and fosters education. This will provide a supervised activity for our kids. Logistics for a restroom can be complied with. Barriers will be in place and are required by insurance. Please consider that this is a benefit for a large portion of our community.

Michelle Daniels is a native of Wanchese. Ms. Daniels said Mr. Polidoro is trying to benefit the community. Wanchese has a community watch program, people have tried

to clean up the community, and this will be another improvement that gives children something to do. If this is done correctly, it could work.

Chairman Midgett declared the Public Hearing portion of the meeting closed at 7:30 p.m.

Donna Creef addressed the board. Mr. Polidoro contacted the Planning Department several months ago and was advised that a private airsoft club is not an allowed use at this site. He chose to file an application to amend the zoning. Mr. Polidoro appeared before the Planning Board last month with the request for a text amendment to section 22-27.9, Baumtown Traditional Zoning, and the board elected to have a public hearing. The Planning Board will make a recommendation to the Board of Commissioners and the Commissioners will make the decision on this. NC state law requires a finding of consistency, or inconsistency, with the Land Use Plan as part of the motion made regarding this. A recommendation to approve, or not to approve, the text amendment is not dependent on the Land Use Plan finding. The Baumtown Traditional Zoning district includes 13 permitted uses and a range of conditional uses. None of the Wanchese districts allow outdoor recreational uses at this time.

Mr. Read asked if tennis courts are an outdoor recreational activity and Ms. Creef said yes.

Dominic Polidoro spoke next. He does not want people to fight over this and can find another location. People are angry. He can take everything off the field. Chairman Midgett asked Mr. Polidoro if he wants to withdraw his request. Mr. Polidoro said no, he wants it to go through, but he doesn't want people fighting about it.

Mr. Polidoro said the proposed site is on the highway and away from houses. It is required to have insurance. The guns shoot 250'. The guns are tested and aren't allowed unless they meet the required standards. Membership can be revoked if there is a problem with someone. Participants wear masks. The guns are loaded only inside the field. There are two referees on the field at all times. There are games, time clocks, treasure hunts, things on walls and hidden in bases. There is a \$5/year membership fee and it will cost \$10/game. It's for locals. The office will be in Manteo. The airsoft field will be open September through April. This will help kids not hurt them.

Charles Read asked Mr. Polidoro if he would put a portable toilet behind a shrub and Mr. Polidoro said yes, he would put it behind a building. Mr. Read asked if safety

requirements, rules, and regulations would be clearly posted. Mr. Polidoro said they already have 3' x 4' signs made for this which are required by insurance.

Ricky Scarborough commended the applicant for his community involvement. Mr. Scarborough said airsoft sounds like something he would have enjoyed, and also would have done something stupid with, as a child. His concern is that this is not an allowed use. A lot of work took place to develop the zoning in Wanchese. Tonight, we are hearing that people who actually live in Baumtown are opposed to this.

Charles Read said many people spoke about doing something for the children of Dare County tonight. He believes this is consistent with the desires of the people who live in Dare County. Children will benefit from playing airsoft with adult supervision. Mr. Read said this should go forward.

Charles Read made a motion to recommend approval to the Board of Commissioners for the proposed text amendment to section 22-27.9, Baumtown Traditional Zoning District, to allow private club airsoft courses.

There was no second to the motion and no vote was taken.

John Finelli said it's difficult to make a decision when hearing articulate, passionate, well thought out comments on both sides of this issue. This may not fall within the intent of the zoning district but when considering the actual use, if he were a resident there, this doesn't sound bad. Mr. Finelli is torn on the issue but is leaning toward voting in favor of it as a conditional use.

Michael Barr appreciates what Mr. Polidoro is trying to do and also appreciates the hard work that went into creating the zoning districts. Baumtown may not be the best place for the airsoft club. There are no recreational uses of that type in the district, there is opposition to it, and maybe this should not be allowed.

Beth Midgett understands the difficulty of keeping children entertained but believes other commercial areas might provide a better location. If she were to vote against this, it would not be a vote against the children of the community but rather a vote against this land use in the Baumtown district.

David Overton is not against airsoft if children are taught how to use a weapon properly but wouldn't want the course in his backyard. Guns in general can portray a negative response and, even with training and safety procedures in place, things that we can't

foresee can still go wrong. Mr. Overton recognizes all of the work that has been done for zoning in Wanchese and believes Baumtown needs to stay Baumtown.

Chairman Midgett said the residents of Wanchese wanted to have zoning and developed it themselves. Regarding the issue at hand, there are a number of things to consider. For personal reasons, Chairman Midgett doesn't like guns. He is opposed to the airsoft course in Wanchese.

Charles Read again made a motion to recommend approval to the Board of Commissioners for the proposed text amendment to section 22-27.9, Baumtown Traditional Zoning District, to allow private club airsoft courses.

There was no second to the motion and no vote was taken.

Michael Barr made a motion to recommend to the Board of Commissioners that they not approve the proposed text amendment to section 22-27.9, Baumtown Traditional Zoning District, to allow private club airsoft courses and further finds that the proposed amendment is inconsistent with the Baumtown Traditional Zoning District and the Dare County Land Use Plan.

David Overton seconded the motion.

Vote: Ayes – 6
Nays – 1

Chairman Midgett, Finelli, Barr, B. Midgett, Scarborough, and Overton voting for the motion and Read voting against.

This item will be considered at the Dare County Board of Commissioners meeting on June 17, 2015.

Extension of Approval Period for Conditional Use Permit, IG Holdings LLC, Super Wings, 24530 NC 12 Highway, Rodanthe

John DeLucia of Albemarle and Associates was present on behalf of IG Holdings, LLC.

Donna Creef told the board that this conditional use permit was approved for the construction of a retail establishment and a second building on the same site. IG Holdings obtained a building permit when their conditional use permit was originally issued but did not start construction and the building permit expired. In order to secure

another building permit, the conditional use permit must be renewed. There are no changes to the site plan that was originally approved. The proposed draft amendment to the conditional use permit would allow IG Holdings to obtain a building permit within 12 months from the date of the conditional use permit amendment.

Mr. DeLucia explained that after the building permit was issued, a portion of NC 12 was lost and the owners decided not to build at that time. There was a building permit issued for the pier and that was built. The owners were going to apply for a new building permit last fall but realized the conditional use permit had expired and they chose not to begin construction over the winter months. They are asking for permission to renew the conditional use permit and are ready to begin construction this fall. Nothing has changed. All of the environmental permits have been issued and all are valid.

Donna Creef explained to the board that IG Holdings will be required to obtain a building permit within 12 months after the conditional use permit amendment is issued and construction must begin within 6 months after the building permit is obtained.

Michael Barr made a motion to recommend that the Board of Commissioners grant an extension of the approval period for the Conditional Use Permit of IG Holdings, LLC. Charles Read seconded the motion.

Vote: Ayes – Unanimous

This item will be considered at the Board of Commissioners meeting on July 20, 2015.

***Extension of Approval Period for Preliminary Plat, Etheridge Acres Parcel 3
Subdivision, Payne Road, Roanoke Island***

Derek Hatchell, property owner and developer, was present at the meeting.

Donna Creef told the board a substantial amount of work has begun on Etheridge Acres Parcel 3. There has been extensive clearing and the roadbed has been constructed. The remaining work includes installing water lines, shaping and grading swales, and actual paving of the road. Mr. Hatchell said all of this is ready to go.

Ms. Creef said this will be the only extension allowed if the board chooses to grant it and it would allow another 12 months for completion.

John Finelli made a motion to grant approval of the 12 month extension period for the Etheridge Acres Parcel 3 Subdivision Preliminary Plat. Beth Midgett seconded the motion.

Vote: Ayes – Unanimous

The preliminary plat approval is valid for 12 months.

NEW BUSINESS

Proposed Zoning Text Amendment, Section 22-27.3 SED-1, Special Environmental District, Mary Fulcher

Mary Fulcher, property owner, was present as well as Natasha Clarke and Barry Foster, potential concessionaire operators/owners.

Donna Creef said SED-1 zoning applies to certain portions of Buxton and Frisco. It's generally referred to as the Buxton Woods Maritime Forest and is the most restrictive zoning district in Dare County. It is designed to limit the amount of land clearing and generally allows single family dwellings. The zoning was adopted in 1988. Ms. Fulcher owns a large tract of property. There is an existing concessionaire that operates horse riding trails or equestrian services in Buxton Woods. The business is a historical use in Buxton Woods and was already in place at the time the zoning was adopted. Ms. Fulcher is proposing the same type of concession be allowed on her property but SED-1 does not list this as a permitted use so she applied for a zoning text amendment.

Ms. Creef contacted the state-owned Buxton Woods Coastal Reserve where most of the trails are located. The manager of the Reserve said he does not have a specific approval process for such a concession. Ms. Creef also contacted the National Park Service because access to the beach is along their property. Approval from the National Park Service to operate this concession will be required regardless of what decision is made by Dare County.

Mary Fulcher said she owns 24 acres in Frisco and believes this is the best thing that could happen at the property. Ms. Fulcher currently has a contract with Sylvia Mattingly that allows Ms. Mattingly to take horses across the Fulcher property. Ms. Fulcher is asking to be allowed to do the same thing with her own property that she is allowing someone else to do. Ms. Fulcher has had health issues and this could help with her income. The wetlands on the property will not be disturbed. There will be minimal clearing of anything. She needs to sell it to somebody and this would be a beautiful way to use the property.

Chairman Midgett asked if Ms. Fulcher is the sole owner of the property. Ms. Fulcher said her cousin, Sylvia Solhaug, owns it with her.

Ms. Creef asked about the status of the concessionaire license with the National Park Service. Ms. Fulcher said she spoke with Scott Crocker, manager of the Buxton Woods Coastal Reserve and Steven Thompson of the National Park Service last Friday and today. They both received all of the information Natasha Clarke sent them. Scott Crocker said he will forward the information through the chain of command in his organization. Steven Thompson said he would send an email today but it was not received in time for the meeting.

Donna Creef said Mr. Crocker left a voice mail which indicated that the Reserve does not have a formal approval process and that Mr. Thompson is the gentleman that reviews concessionaire licenses for the National Park Service.

Beth Midgett asked if Mr. Thompson gave any indication of the length of time the concessionaire review will require. Ms. Fulcher said no and added that Mr. Crocker said he would provide a response very soon.

Chairman Midgett asked if the Planning Board is required to have a public hearing for this. Ms. Creef replied that a public hearing is an option and the Planning Board makes their decision on a case-by-case basis. Beth Midgett said she believes it would be prudent to schedule a public hearing because this affects the Special Environmental District zoning. Ms. Creef said hopefully we would have an answer from the National Park Service before the next Planning Board meeting.

Mr. Finelli asked if this use is possible without National Park Service approval. Ms. Creef replied there would be no access to the National Park Service beach but it may still be possible in some limited fashion. Mr. Read asked if this request will be withdrawn if the National Park Service does not grant the concessionaire permit. Ms. Fulcher and Mr. Foster said they will proceed with the requested text amendment regardless of the National Park Service's decision.

Beth Midgett made a motion to schedule a public hearing on the proposed zoning text amendment to section 22-27.3 SED-1. Charles Read seconded the motion.

Vote: Ayes – Unanimous

The public hearing will be scheduled for the July 13, 2015 Planning Board Meeting.

OTHER BUSINESS

Staff Update, Zoning in Rodanthe, Waves, Salvo

Donna Creef said the Dare County Board of Commissioners enacted a moratorium on borrow pits in Rodanthe, Waves and Salvo effective through December 31, 2015 and encouraged Ms. Creef to have zoning for the villages in place by that date.

At this point we are planning 2 districts that would be designated for residential uses and 2 districts that would be designated for commercial uses. That could change.

The draft regulations discussed at this meeting focused on developing standards regarding abandoned commercial properties/sites and lighting standards in commercial districts.

Regarding abandoned commercial properties, the Planning Board discussed addressing the site before it becomes a nuisance, securing the site, dealing with retention ponds, determining what constitutes "abandoned", and imposing a fine or lien against the abandoned property.

Donna Creef said very specific lighting standards were developed as part of the Village Commercial Zoning District when Duck was still in Dare County's jurisdiction. These were used as the basis for the draft regulations Ms. Creef provided to the board. Regarding commercial lighting standards, the Planning Board discussed requiring a lighting plan along with any site plan that will have exterior lighting, prohibited lighting, non-conforming lighting, repairing/replacing lights damaged by storms, light meters, spillover, and developing regulations for LED signs.

The Board also briefly discussed developing separation standards regarding proximity to a residence and how they should be measured.

Ms. Creef said fill standards and stormwater standards are very complex and past efforts to adopt these regulations on a county-wide basis have been unsuccessful. It may be best to move forward with the zoning map and district regulations and re-visit stormwater and fill issues separately at a later date.

Ms. Creef will continue to provide updates at future Planning Board meetings. No action is required from the Planning Board at this time.

ADJOURNMENT

There being no further business before the Dare County Planning Board, a motion to adjourn was made by Charles Read and seconded by Beth Midgett.

Vote: Ayes – Unanimous

The meeting adjourned at 9:10 p.m.

Respectfully Submitted,



Sharon L. Flatt
Planning Board Clerk

APPROVED: July 13, 2015



Elmer R. Midgett, Jr.
Chairman, Dare County Planning Board