



Dare County Planning Board Virtual Meeting

Meeting will be streamed live on www.youtube.com/darecounty
Dare County Board of Commissioners Meeting Room
954 Marshall C. Collins Drive
Manteo, NC 27954

February 8, 2021

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 January 11, 2021 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 comment will be received by the Board until 4:00 PM on the day of the meeting.
- V. Old Business
 - a. None
- VI. New Business
 - a. Wind Over Waves, Subdivision Phase 3, Addition of Entrance from NC Highway
- VII. Other Business
 - a. Chapter 160D Amendments to Land Use Regulations, Initial Staff Briefing
- VIII. Adjournment

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, January 11, 2021. 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 at: www.youtube.com/darecounty

CALL TO ORDER 6:00 pm

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

MEMBERS ABSENT

APPROVAL OF MINUTES

There being no correction or additions to the minutes of the December 14, 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

Members of Lower Skyco, LLC provided email comments to the Board in support for choosing 'Option 1' as identified by Planning Director, Donna Creef, at the December 14, 2020 meeting. Option 1 would allow for camping cabins in campgrounds at 100% camping cabins with a density of fourteen units per acre. Lot coverage would remain at 60% based in the overall parcel size excluding wetland areas. Mr. John Robbins, III, noted that members of Lower Skyco, LLC support the reduction from 28 units to 14 units per acre and have no opinion regarding wetlands being used in this calculation. Comments were read aloud to the Board by Planning Director, Donna Creef, as requested by Mr. Robbins.

Joseph J. Anlauf, PE of Anlauf Engineering, PLLC, Kitty Hawk, NC, provided email comments to the Board in regards to the Travel Trailer Park and Campground Ordinance. He supports a revision to Section 160.22 (B) which requires the Park to include a minimum of two acres of contiguous area but allows wetlands or marsh to be included with the two acres of contiguous area. He also supports the position if

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wetlands are included in the total park area that they not be allowed to be factored into the calculations of maximum allowed density and lot coverage.

A copy of emailed public comments is available upon request.

OLD BUSINESS

-None-

NEW BUSINESS

Preliminary Plat Review, West Side Subdivision, Roanoke Island, NC

John M. DeLucia, P.E. of Albemarle & Associates, Ltd., representative for this subdivision experienced connectivity issues to the virtual meeting and was not present for the Planning Board discussion. He was able to connect later in the meeting.

Donna Creef addressed the Board. She said the site area is 4.02 acres and will feature five lots. All of the lots are greater than the minimum lot area of 15,000 square feet and all lots will have frontage on D. Victor Meekins Drive, SR 1115. There was an older structure and accessory building on the property that were recently demolished.

Ms. Creef said no State stormwater permit will be required but additional information on stormwater will be needed as part of the preliminary review. Ms. Creef said coordination with NCDOT will be needed for driveway connections to the State maintained road. Project Engineer, John DeLucia has reviewed existing swales along SR 1115 and it is his opinion that the swales are adequate. The size of the lots is such that stormwater from the lot improvements will not drain to the roadside swales.

Ms. Creef noted the plat depicts a dumpster easement in the upper corner of lot 5. The ordinance states a dumpster location may be required. Ms. Creef recommended the easement be deleted and not established. Ms. Creef said the likelihood of Dare County discontinuing door-to-door solid waste service is extremely low.

The Board acknowledged it is unlikely that door-to-door solid waste service will be discontinued in Dare County.

Buddy Shelton made a motion to recommend approval of the preliminary plat subject to the following conditions:

1. The plat shall be revised to indicate removal of the solid waste easement in the corner of lot 5.

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David Hines seconded the motion.

Vote: Ayes – Unanimous

Preliminary Plat Review, Payne Estates, Section 5, Roanoke Island, NC

Timothy L. Fish, PE, PLS, of M2C Geomatics and Design, PLLC, was present on behalf of the property owners.

Noah Gillam addressed the Board. He said the site area is 3.1 acres with 7 proposed lots. All lots contain area in excess of the minimum lot area of 15,000 square feet. Mr. Gillam noted that a new road will be installed to access the lots. The applicant needs to submit a signed statement from a North Carolina licensed engineer, stating the proposed streets as designed will meet NCDOT standards. Restrictive covenants addressing road maintenance will be needed before final plat recordation.

Mr. Gillam noted that a state stormwater management permit is needed. The Subdivision Ordinance is specific that the state permit must be approved before County preliminary approval can be granted.

Mr. Gillam said the Dare County Fire Marshal has reviewed the proposed subdivision, and is requiring a fire hydrant be installed along the proposed new road to satisfy the requirements of the North Carolina Fire Code.

Chairman Finelli asked where do we stand on the State stormwater permit. Mr. Fish said it has been submitted but he has not received anything back yet.

Michael Barr commented that the owner information shown on the large lot on Payne Road is incorrect. Mr. Barr said it should be lot 8. It was previously recorded as lot 6C. Mr. Barr said lots 10, 11 and 12 does not show the front setback is 75 ft wide. Mr. Barr said that needs to be revised. Mr. Barr also noted the Piper monument needs to be added to the plat.

Chairman Finelli asked the Board if they want to table preliminary plat approval until the State stormwater permit is received or if they want to consider preliminary approval subject to receipt of the State stormwater permit.

The Board indicated agreement preliminary plat approval may be considered subject to receipt of the State stormwater permit.

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Mr. Gillam added no land disturbing activity may occur until the permit is issued. Mr. Fish said he has told the property owner that no work could be done until it was approved.

Michael Barr made a motion to recommend approval of the preliminary plat subject to the following conditions:

1. The plat approval becomes valid on the date the NC stormwater management permit is approved for the property. The twelve-month preliminary plat approval will start on that date.
2. A letter from a North Carolina Licensed Engineer stating proposed road improvements meet NCDOT Standards.
3. Lots 10-12 need to show the front yard setbacks at a distance from where the lots are 75 feet in width.
4. The location of the proposed fire hydrant on Dakotas Court shall be added to the site plan per the Dare County Fire Marshal.
5. There shall be no land disturbing activity on the property until these items have been addressed and approved by the Planning Department.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

Conditional Use Permit Application for a Cluster Home Development, Maritime Ridge, 50636 NC Hwy 12, Frisco, NC

Michael W. Strader, Jr., P.E., of Quible & Associates, P.C., was present at the meeting.

Noah Gillam addressed the Board. He stated the proposed Cluster Home Development project is zoned S-1 and cluster homes are permitted as a conditional use. The applicant is proposing to construct four (4) 900 square foot two (2) bedroom dwellings. The proposed site plan shows the dwellings separated by 28 feet exceeding the 15-foot minimum requirement. He also noted each dwelling will have two gravel parking spaces.

Mr. Gillam said the proposed Cluster Home Development will be accessed from an existing 20-foot asphalt road. The Dare County Fire Marshal has reviewed the site plan and has indicated the existing asphalt road will be sufficient to allow emergency and service vehicle access to the four proposed dwellings. Mr. Gillam stated notes addressing the emergency vehicle access have been added to the site plan.

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Mr. Gillam said Section 22-31.1 states that any structure in a Cluster Home Development shall be occupied on a long-term basis as defined in the Zoning Ordinance. Long-term is defined as a period longer than 31 days. Mr. Gillam said this information should be noted on the site plan and in any home-owners documents created for the property.

A draft copy of the Conditional Use Permit (CUP) was provided to the Board.

Chairman Finelli asked Michael Strader if 24 months is an acceptable timeframe to obtain the building permits. Mr. Strader said they could work with that timeframe but it would be helpful if the Board would grant an additional 12 months. Noah Gillam said other cluster home projects have been allowed 36 months but they did have additional units. Mr. Gillam said 36 months would be fine.

Chairman Finelli asked Mr. Strader if it was the intention to sell the footprint of the structures. Mr. Strader replied that in this case it is not as they intend yearly rental and holding on to the entire parcel. Mr. Finelli said if that should change, Mr. Strader should forward the homeowners documents to the Planning Staff. Mr. Strader confirmed he understood the directive.

The Planning Board indicated consensus with the three-year timetable.

Beth Midgett asked Mr. Strader to clarify if one water system will be per each two units. Mr. Strader replied that was correct.

Michael Barr thinks it would be helpful to have the fire hydrant listed on the final site plan.

Michael Barr made a motion to recommend approval of the conditional use permit application subject to the following:

1. Fire hydrant location needs to be shown on the site plan.

Buddy Shelton seconded the motion.

Vote: Ayes – Unanimous

This item will be submitted for review by the Board of Commissioners at their February 1, 2021 regular meeting. The Conditional Use Permit will be reviewed according to

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quasi-judicial procedures and the applicant must be in attendance to acknowledge and accept the conditions of approval.

OTHER BUSINESS

Continued Discussion of Camping Cabin Regulations Referred by Board of Commissioners

The Planning Board discussed draft language as submitted by Chairman Finelli:

Section 160.22 (C) PARKS may be comprised of travel trailers sites, camping cabins, alternative camping units and camping tent sites. The preliminary and final site plan shall identify the proposed use of each space or camping area. If a PARK is proposed to feature other camping units other than travel trailers, a minimum of 50% of all camping spaces shall be designated and used as travel spaces or; the total number of camping cabins and alternative camping units shall be limited to a density of 14 units per acre.

Buddy Shelton asked if a developer wants to build greater than 50% camping cabins it reduces from 28 sites to 14 sites. Chairman Finelli said if over half of the units are camping cabins or alternative camping units you cannot build more than 14 units per acre. Donna Creef said there is a reduction of density as the percentage of alternative camping units and camping cabins increases. She explained as the percentage goes up the density goes down. Chairman Finelli said under this option a developer could build 70% cabins or they could build 100% cabins which would be 14 units per acre.

Beth Midgett commented she is comfortable with the wetland exclusion and lot coverage.

Michael Barr thinks the draft language needs to be clarified in showing the differences that you could accomplish. Mr. Barr said when he read the draft language he read it as if camping cabins were over 50% then everything is 14 units per acre. Chairman Finelli said they could expand the language in the draft or add a table with examples.

Chairman Finelli proposed adding to the last sentence of the draft language that the total number of camping cabins and alternative camping units shall be limited to a density of 14 per acre with the remaining sites, if utilized, devoted to travel trailers. The Board tasked Staff with creating a table that shows several examples ratio to density calculations.

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Chairman Finelli made a motion to recommend a change to the Travel Trailer Park and Camping Ordinance to include draft language as written in the January 7, 2021 memo to add the following language saying the total number of camping cabins or alternative camping units shall be limited to a density of 14 units per acre with the remaining sites, if utilized, devoted to travel trailers. Staff is to include a table showing density of 70, 80, 90 and 100%.

Michael Barr seconded the motion.

Vote: Ayes – Unanimous

The Board discussed lot coverage and the wetland exclusion.

Chairman Finelli prepared a Statement Regarding Lot Coverage as follows:

The Planning Board supports the current methodology for lot coverage calculations for campgrounds, which excludes wetlands, as this is balanced out by the allowance of unpaved (pervious) roadway and 60% maximum lot coverage. The Planning Board also supports the existing requirement that PARKS contain a minimum of 2 acres of contiguous area, exclusive of any coastal or freshwater wetlands, so that PARKS are of a sufficient size, not just small areas of high ground with a few camp sites.

Chairman Finelli made a motion to forward the Statement Regarding Lot Coverage to the Board of Commissioners at the same time they are presented with the revised Travel Trailer and Campground Ordinance recommendation.

David Overton seconded the motion.

Vote: Ayes – Unanimous

ADJOURNMENT

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

Vote: Ayes – Unanimous

The meeting adjourned at 7:20 p.m.

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Respectfully Submitted,

Andrea DiLenge
Planning Board Clerk

APPROVED: February 8, 2021

John Finelli
Chairman, Dare County Planning Board



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SUBDIVISION FACTSHEET
Planning Board-- February 8, 2021 Preliminary Plat Review

NAME: Wind Over Waves Phase 3—New Entrance off NC 12

LOCATION: Salvo, NC

SITE SPECIFICS: No new lots to be added

STREETS:

A second entrance to the Wind Over Waves Subdivision is proposed for Phase 3 of the subdivision.

UTILITIES:

STAFF COMMENTS: The developers of Wind over Waves Phase 3 are proposing to convert lot 54 to serve as an new access to the Wind over Waves Subdivision. Since this will impact the layout of the division as previously recorded, a revised plat has been submitted to the Planning Board for review. The exemption standards for administrative review exclude divisions that involve new road improvements. The remnant portions of lot 54 after the new road is constructed will be combined with the adjoining lots of lot 53 and lot 55. NCDOT will also review the proposed entrance. The second entrance will alleviate traffic in the other two phases of the Wind over Waves Subdivision.


Donna Creef

1/25/2021
Date



County of Dare

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

January 29, 2021

MEMORANDUM

TO: Planning Board

FROM: Donna Creef 

RE: NCGS Chapter 160D Land Use Legislation

In 2019, the North Carolina General Assembly adopted legislation that updated and combined the various statutes on planning, zoning, and building codes. These regulations are now found under Chapter 160D of the NC general statutes. The standards require all local governments in North Carolina to revise their land use ordinances to ensure consistency with Chapter 160D. Local governments have until July 1, 2021 to update their local regulations. Most of the changes are procedural in nature. Others, such as a broadened conflict of interest standards, are of a more substantive nature. Failure to update our ordinances puts us at risk of legal action for any permit decisions issued by the Board of Commissioners and/or by the staff. The state regulations supersede local regulations and will apply whether or not we make any changes. The majority of the revisions will be language taken directly from the NCGS. Planning Board review is required for all land use ordinance amendments and a recommendation on the amendments will be needed as we proceed with the review of the amendments.

Summary of Amendments

1. Forty-six zoning districts will need adjusting to substitute the wording “conditional use” for “special use”. The same procedures for permit approval will be followed, they will just be called special use permits instead of conditional use permits. Any CUPs approved already remain valid. These amendments are terminology, not substantive changes.
2. Sixteen other sections of Zoning Ordinance will be amended including substitution of the wording of “conditional use” for “special use” and to update the definition section for consistency with state definitions. Some new sections will be added to address bona fide farms and family homes which must be treated differently under local land use regulations. The wireless communication tower regulations need updating for consistency with state laws.
3. Section 22-63 to Section 22-84 of the Zoning Ordinance will be revised and updated for consistency. The revisions will include provisions on legislative and evidentiary

procedures for zoning amendments, special use permits, appeals and variances. One change will involve the role of the Planning Board in the review of special use permits. Chapter 160D provides for the Planning Board to serve as a “preliminary forum” for special use permits and their recommendations not binding on the Board of Commissioners. Some new sections will be added for conflicts of interest, vesting, and permit choice. Currently vested rights are addressed in Chapter 152 of the Dare County Code of Ordinances but it seems more appropriate to have the standards in the Zoning Ordinance. Advisory boards and planning staff will now be subject to conflict of interest standards.

4. Several sections of the Subdivision Ordinance will need to be updated. Local land use regulations cannot limit certain building design features including the number and type of rooms. The minor subdivision exception includes a four-bedroom limitation that need to be deleted to avoid any conflict with the NCGS.
5. Language will be added to the Zoning Ordinance to recognize the Dare County Land Use Plan as the comprehensive plan along with procedures on consistency statements and new standards requiring the Board of Commissioners to also adopt a statement of reasonableness for zoning map amendments.
6. Chapter 152 of the Dare County Code of Ordinances will be updated to address Planning Board and Board of Adjustment roles and recordkeeping provisions.

This is a summary of the changes. As I progress with the drafting of the amendments and review the information with the County Attorney, the amendments will be submitted to the Planning Board for review and recommendation. The amendments should not require any editorial work by the Planning Board since most of the amendments will be taken directly from the NCGS to avoid any inconsistencies.