

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Tuesday, February 7, 2023. This meeting was held in the Dare County Board of Commissioners meeting room located at the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

CALL TO ORDER 6:02 pm

ADMINISTERED OATH OF OFFICE

The Oath of Office was administered to Planning Board members David Overton and John DeBoy. They were both reappointed by the Board of Commissioners for a three year term.

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

MEMBERS ABSENT Beth Midgett

APPROVAL OF MINUTES

Chairman Finelli motioned to amend the minutes from the January 2, 2023 meeting of the Dare County Planning Board. He expressed that the word "additional" needed to be added on page 3.

Drafted and Proposed language shown below:

DRAFTED:

The Planning Board reviewed the draft SUP and deemed the conditions and site plan to be reasonable and appropriate subject to the following condition:

1. The site plan to be updated to show the location of the gated access to the community.

PROPOSED:

The Planning Board reviewed the draft SUP and deemed the conditions and site plan to be reasonable and appropriate subject to the following additional condition:

1. The site plan to be updated to show the location of the gated access to the community.

Terry Gore motioned to approve the minutes as amended, Buddy Shelton seconded.

Vote: Ayes – Unanimous

PUBLIC COMMENT

Chairman Finelli took this time to announce that the Public Comment Section will be broken into two parts due to the large number of attendees to speak about the Special Use Permit for Wanchese, NC.

Chairman Finelli then asked if there were any other Public Comments that were not in regards to the Special Use Permit. No one responded to the invitation to address the Planning Board. Chairman Finelli closed this section of Public Comments at 6:05.

NEW BUSINESS

Preliminary Plat Review, 2 Lot Minor Subdivision, Lorraine H. Burrus, 57161 Pricilla Curve Road. (Parcel No. 015538000)

Joseph AnLauf with AnLauf Engineering, was present on behalf of the property owner.

Savannah Newbern, Planner addressed the Board. She stated that the total site area is currently 4.732 acres and that there are a total of two proposed lots. Ms. Newbern expressed that no new road improvements are needed to access the proposed lots. Lot A and Lot B will be accessed from the existing NCDOT maintained secondary route, Pricilla Curve Road. She expressed that both lots will be on Dare County central water and they will both have individual on-site septic systems. Lastly, she voiced that there are no state permits that are required per NC Department of Environmental Quality for stormwater.

Ms. Newbern then presented the staff comments as written below:

The size of the parent parcel exceeds the threshold for administrative approval. The proposed lots exceed the minimum lot size requirements for the R2-AH zoning district. The proposed lots are currently vacant. The CAMA 30' buffer and all minimum building setback lines are shown on this plat. 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.

Joseph AnLauf stated that they have obtained the Improvement Permits for both of the proposed parcels.

The Planning Board had no question of the applicant or staff.

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

Vote: Ayes – Unanimous

***Preliminary Plat Review, 5 Lot Minor Subdivision, Murray Bay, 52185 Mare Vista Drive.
(Parcel No. 014896000)***

Billy Yetzer with Sea Level Consulting was present on behalf of the property owner.

Savannah Newbern, Planner, addressed the Board. She stated that the total site area is 2.10 acres with the smallest proposed lot being 16,386 square feet, located in the S-1 Zoning District. Ms. Newbern expressed that Lots 4A and 4B are accessed from an existing 20' wide easement and that an extension of this existing 20' access easement is proposed for lots 4C, 4D, and 4E. The applicant states in Note 12 on the preliminary plat they intend to improve the entire access easement with gravel capable of handling emergency and trash collection vehicles.

The preliminary plat was reviewed by the Fire Marshall, a copy of his comments are on file with the Planning Board Clerk. Ms. Newbern recommended that if the Planning Board approves this motion, that they should state that the motion be granted approval subject to compliance with the Fire Marshall's comments.

Ms. Newbern stated that the CAMA 30' buffer and all minimum building setback lines are shown on the plat.

The Planning Board had no question of the applicant or staff.

Terry Gore made a motion to approve the preliminary plat subject to compliance with the Fire Marshall's comments. Buddy Shelton seconded.

Vote: Ayes – Unanimous

PUBLIC COMMENT

Chairman Finelli opened Public Comment back up at 6:15.

He acknowledged that many of the attendees were at the meeting due to the Special Use Permit for Wanchese, NC. He explained that the Board of Commissioners has made workforce housing one of their top priorities, which has implemented ordinance

changes that allow for accessory dwellings and cluster homes. He explained that before these changes were implemented the Planning Board held four consecutive meetings and a Public Hearing to discuss this matter. Whereas, at all of those meetings people spoke in favor of this matter and no one spoke against it. Chairman Finelli stated that after the fourth meeting the change of ordinance proceeded to the Board of Commissioners. The County Commissioners held a public hearing in which once again a number of people spoke in favor of the change of ordinance, no one spoke against it.

Chairman Finelli took a moment to express that the Planning Boards job is to review the Special Use Permit Application and determine whether it complies with the ordinance or not, not to debate the ordinance.

Chairman Finelli then outlined the procedure for making public comments. Following is a summary of all citizen remarks:

Tom Stewart - 334 Colington Dr.

- Discussed the consequences of not having enough individuals in the workforce in Dare County
- Manages a company in the Outer Banks and employs 50 year round full time employees and 200 seasonal, facing difficulties to meet these numbers
- Previously entertained applications from individuals outside of the area with the intention of them finding housing, stated that this is no longer an option.
- Has previously worked with Brad Alexander, Aria Construction, and complemented his quality of work
- Recognized that this project is the first large scale project that he has seen here without non-local third party involvement.
- Acknowledged that Dare County Schools has 37 job openings, Outer Banks Hospital has 37 job opportunities, and Dare County has 30 job openings.

Brimage Silver - 229 CB Daniels Sr Rd.

- Resident & land owner in Wanchese that is zoned WR-1, which allows for cluster homes.
- Owned these properties prior to the ordinance change in 2018 and was never made aware of the change.
- Expressed that posting the change in the Coastland Times is not enough of a notice and does not allow for everyone to be made aware.
- Realtor for 20 years on the Outer Banks.
- Stated that short term rentals are always known to be less than 30 days & long term rentals are typically around 6 months or more.

- Referred to the minutes of the Dare County Planning Board Meeting from September 24th, 2018 where Beth Midgett made a motion to recommend approval of the cluster home ordinance based on finding a consistency with the 2009 Dare County Land Use Plan Update Policy 4.
- She acknowledged the intent on addressing the long-term housing issue, but stated this plan is not necessarily addressing the needs of the year round population due to having the opportunity of having a 31 day rental available.
- Referenced the 2009 Land Use Plan and that 49% of the Dare County permanent population lives in the unincorporated areas.
- She owns land in the Historic Section of Nags Head that has been in her family for 150 years. Expressed that she has seen another cluster home type of development that Brad Alexander has done in that area that has become seasonal rentals.
- Expressed her concerns as follows: Who is going to police that these homes are rented longer than 31 days? The homes surrounding this property, Brinkley Road for example, are already under water, what will happen after adding all the fill for this development?
- Stated that 57% of homes in Dare County are owned by non-residents and used for seasonal rentals, which are vacant in the off-season, which creates a lack of 6 month or longer rentals for the workforce population.
- Stated that if this was a development for the common public good this development would be utilizing third-party resources.

Mitchell Bateman - 64 Cudworth Cemetery Rd.

- Feels that there has been a lack of thought gone into the safety and quality of life of the people who are going to reside in these homes.
- Stated that there is a swale located in between each one of these homes for storm water runoff which prevents a yard for the children to play in.
- Expressed concern that there has been no consideration of a playground, bike path, nor green space.
- Explained that he is not speaking against the development, but is asking that conditions be implemented prior to approval.
- Presented DOT statistics that he obtained from the DOT website: The Annual Average Daily Traffic from Old Wharf Rd.
- Stated that the proposed cluster home project is calling for 214 vehicles, which would be roughly 500 trips if the residents only left and returned one time. He said that this would be a 26% increase in traffic on the one piece of road.
- Stated that the entrance of the proposed subdivision is located in the middle of a blind curve, and immediately across from this entrance is the intersection of Pugh

Road and shortly before is Old Schoolhouse Road. In the morning you have Spencer Boatworks, Gallop Roofing, & Harrison Boatworks employees, two school buses, and three times a week a trash truck all at the same time on a blind curve.

- Discussed the landscape buffer and asked the Planning Board to enforce a condition that states the entrance be moved to Brinkley Drive.
- Asked the Planning Board to make a condition that there is fencing around all of the retention ponds & swales.
- Asked the planning board to consider a bike path and playground on this property to enhance the quality of life.

Chris Carey - 44 Orman's Way

- Expressed that he understands the crisis of the lack of workforce housing, he faced challenges himself with finding a place to live.
- In opposition to the Special Use Permit, he believes that it may follow the law but it does not follow the spirit of it.
- After his own research, he stated that the population of Wanchese is 1,500 & adding an additional 144 beds would make a potential population of 2,144, which is an increase of six to seven percent.
- Stated that putting this amount of growth on a small community is not sustainable without other infrastructure improvements.
- Has concerns on how the water is going to be treated. Stated that there will be 120 bathrooms and 60 laundry rooms. Wonders if the proposed technology and wastewater facility will be able to address the input.
- Concerns on the pumps that will have to be run 24/7 and if there is a power outage who will be called.
- Concerned about the Japanese Privet and stated that according to the USDA & NC Extension Services that this is an invasive species.

Tread Willis - 142 Bellview Ave. Orange, VA

- Parents reside on Old School House Rd.
- Feels that the Cluster Home Project needs to be carefully looked at for compliance.
- Referenced the proposed site plan and explained that there are 25' radius cul-de-sacs, which is enough for a passenger vehicle, but not a fire apparatus vehicle where the recommended turn radius is 48'.
- Explained that if the updates were made to meet the minimum 48' requirement it would encroach on to the home sites and on to the proposed septic fields.

- Acknowledged the ingress of the property has 2 fire hydrants and stated that the 22' wide road appears to be inadequate and that 26' wide road is the minimum for a road that has a fire apparatus on it.
- Expressed that if all of these regulations were fulfilled the lot coverage would rise to 37%.
- He expressed that he does not reject the idea of cluster homes, he is against the way it has been proposed.

Joey Daniels - 117 Skinners Landing Ct.

- Agreed with most things except that it can not be stopped. He believes that anything can be stopped & it is not too late to change things.
- Expressed that Wanchese never wanted zoning until the wiser people within the community stated that if Wanchese did not zone itself Manteo was going to do it. He expressed that the reasoning behind Wanchese zoning was to prevent exactly what they are fighting against now.
- His issues lie with the way the zoning rules were changed. Expressed that everyone knows their addresses and does not understand why they were not contacted to come speak as stakeholders.

Lorraine Tillett - 188 Old School House Rd.

- Elaborated on the Community of Wanchese and the concerns of their people to conserve their family fishing village atmosphere that has been carried on since the 1800's.
- Stated that Wanchese financially carried Dare County before it was even a County with fishing and boat building.
- Expressed that in 2004 Wanchese was the only place on Roanoke Island that had no zoning.
- She assisted with the zoning of Wanchese, by taking all 50 streets and reviewing them one by one, this allowed for 37 of them to be zoned single family residential. She expressed that this took two years to complete.
- Discussed all the awards and accolades that the Community of Wanchese has received.
- Stated that after her research she discovered that there are 95 horses in Wanchese at the time of her research. Asked after all the additional traffic what will happen to all of them?
- Announced that Wanchese created the Accessory Structure Zoning Code in North Carolina.
- Acknowledged that the information was advertised to the public and then referenced Notice of Procedures Section 22-72.

- She was employed with Dare County for 25 years as the zoning officer.
- Expressed that the prior Planning Board Chairman would call a public hearing to ensure he gathered input before making a recommendation to the Board of Commissioners.
- Does not feel that the Cluster homes are going to be feasible for teachers, EMT workers, nurses, etc.
- Feels that the health, welfare, and well-being of Wanchese is being trampled on.

Jon Matthews - 3444 Mill Landing Rd.

- Believes that jetties should be built instead of houses.
- Discussed the culture, history, & heritage of Wanchese & being one of the oldest fishing communities in the country.
- Referenced the cluster home blueprints & expressed that it looks like Sun Communities, which is a company that owns Safe Harbor.
- He then explained that Safe Harbor destroys fishing communities and that if this cluster homes has anything to do with them then the fishing village of Wanchese will be gone.
- He addressed his concerns over the Bald Eagle that has been spotted on the proposed land.
- Expressed that downtown Manteo is great for tourists, but does not want to see Wanchese turn into that.

Sandra Barile - 154 Pine Road

- Presented the Planning Board with the signed petition regarding Section 22-31.1 Cluster Home Developments of the Dare County Code of Ordinances.
- Stated that there were 545 signatures on the petition plus additional letters addressing individuals concerns on adopting the ordinance.

Mike Roufa - 4237 Mill Landing Road

- Feels that there are not many places in the United States like Wanchese and the Outer Banks.
- Talked to his neighbors and has not found an individual that approves of the cluster home project as it has been presented.

Ralph Barile - 154 Pine Road

- Spoke on the storm water and soil conditions of the cluster home project.
- Feels that it is all swale and retention ponds and there is no overflow.
- He has seen a few projects similar to this one and stated that they never work.
- He does not see how this project will work with the soil conditions.

- Expressed his concerns with the septic tanks and how the dumpster is in one central location.

Mikey Daniels - Address Not Provided

- Feels that there are a lot of issues in the Outer Banks, including polluted sounds.
- Stated that he currently has two septic tanks in his yard because they are not working.
- Shared history on Wanchese, his family, and his family's fish house called "Wanchese Fish Company."

Lynn Davis - 612 Old Wharf Rd.

- Started by expressing that he agreed with many of the other things that were previously stated.
- Discussed the traffic on Brinkly Dr. and how there have already been two fire trucks and a tractor trailer that have wrecked into the ditch.
- Owns three pieces of property on Brinkley Dr.
- Agrees that everyone does their best on policing, but states that it is not always enough.
- Stated that there is not enough of a Fire Department in Wanchese to take care of a fire in Wanchese as it is.
- Expressed that it takes EMS six minutes to get from the Manteo station to Wanchese.
- He would like to see a solid fence go between Brinkley Dr. and the proposed Cluster Home Site.

Patty Callum - 129 Old County Rd.

- She stated that she is a concerned citizen and that she has two children on Brinkley Rd.
- Expressed her personal view on the cluster home project which included the environmental impacts for the entire county, forests and trees, & estuaries.
- She wants the community's input to be taken seriously.
- She asked what happened to the motto of Preserve and Prosper.
- Finished with stating the biggest threat to the island is the belief that someone else will save it.

Jennifer Davenport - 118 Pugh Rd.

- Stated that she is not against the developer.
- She feels that the entrance of the cluster home project is in an extremely dangerous location.

- She expressed her love for the horses and the community of Wanchese.
- Discussed the buoy tree that is located in Wanchese that supports the commercial fisherman.

Mindy Ralph - 115 Pond Rd.

- Owns property in Wanchese and Manns Harbor.
- Expressed that she and the children younger than her are the future generations of Wanchese.
- She expressed how it used to be safe in Wanchese for children, and she does not feel like that the safe environment of Wanchese will continue.
- Feels like the cluster home project is too much, and that it should be cut in half.

Ken Werth - 448 Old Wharf Rd.

- Moved to Wanchese from Ketchikan, Alaska in 2014.
- Shared stories about Ketchikan when they began to allow cruise ships to come into the area and how it relates to Outer Banks.
- He stated that the proposed entrance for the development is in an awful location.
- Discussed the water issues in Wanchese and how the pond in his backyard used to overflow.
- Feels that the proposed development is not reasonable nor responsible.

Denise Daniels - 49 Tillet Rd.

- Owns a long term rental 169 Brinkley Dr.
- Asked why you would want to have 60 homes on that one area of land and what will the rent be?
- She voiced how concerned they are about stormwater runoff and how Hurricane Sandy flooded their entire yard in just a few hours.
- Also concerned that this will not be the only cluster home development in Wanchese.

Laurie Tillett - 396 The Lane

- Discussed her family history and her roots to Wanchese.
- Stated that her father put in the only mobile home park in Wanchese, which she now owns with her five sisters.
- Stated that in that 10 acre mobile home park that they own there are only 18 mobile homes and they are affordable housing for people in the community.
- She is opposed to this project and expressed how they have all played by the rules that were presented to them and now the game has changed.

- Stated that there was no one present in the meeting that knew about the previous meetings where the zoning change was discussed.

Bill Wilson - Address Not Provided

- In agreement with the statements that were already presented and he is against this development.

Jackie Beasley - Address Not Provided

- In agreement with the statements that were already presented and she is against the development.

Laura Mann - Address Not Provided

- In agreement with the statements that were already presented and she is against the development.
- Stated that she does not think the Commissioners are working for the people of the County.

Craig Parker - 341 Old Wharf Rd.

- Stated that he is 65 years old and had never seen a Bald Eagle in the wild until recently and that in the past two years he and his wife have had the opportunity to observe this Bald Eagle fly into the proposed property.
- Stated that there are multiple Bald Eagles nests in Wanchese & Skyco.
- He called the Fish and Wildlife Service & talked to Chris Turner & he said that if there are nests in that area there are only certain times of the year that you can cut trees down. He also stated that Bald Eagles return to the same nests for decades.
- Discussed the meeting about Food Lion wanting to go where TL's is currently located & how it should be put in East Lake or Colombia & how East Lake is a blind area.
- Asked Mr. Worth if he received a certified letter from the County in 2018 discussing the zoning change, Mr. Werth responded by saying he did not.
- He expressed that one of his main concerns is that we have sold the beach to northern developers and it has been ruined, and now that they have no more room they are trying to come to Wanchese.
- Noted that Manteo has higher ground than Wanchese which is beneficial to the drainage.
- Discussed the Eagle Creek Development in Moyock and how it was not successful.
- Expressed his concerns about the drainage.

- Asked the Planning Board to really rethink this development.

Chety Parker - 341 Old Wharf Rd.

- Feels that this development does not need to come to Wanchese & it should be sent to Nags Head.

Jeanine Emery - Manteo

- Expressed how she has been following the affordable housing issue in Dare County & how nothing has happened in three years.
- Discussed her concerns on the deforestation of Roanoke Island.
- Elaborated on all of the potential affordable housing locations which included behind the CVS in Manteo which was denied, Nags Head which was denied, & now Wanchese.
- She does support the Cluster Home project, just not as many that have been proposed.
- Stated that everyone wants health care, fire fighters, police, & we do not have enough of them because they have nowhere to live.

Barry Holt - Address Not Provided

- Stated that we the people are against this project and it should be considered before a decision is made.

Rex Mann - E R Daniels

- Expressed that he does not like the way the Cluster Homes look.
- Stated that they do not have an ambulance in Wanchese & that the value of the dollar has been put before the value of lives.

Name Was Not Stated/Or Written on Sign Up Sheet

- Expressed that thirty day rentals are not year round housing, it favors a hotel.
- Discussed the few Airbnb's that are located in Wanchese & how they are respectful of the community.

John Silver - 158 Beverly Dr.

- Stated that he was not made aware of the cluster home nor the zoning change.
- At the Wanchese Community Meeting he mentioned that he spoke with Noah, Planning Director, who told him that the cluster home project was legal per the North Carolina General Statute.
- Quoted the Black's Law Dictionary (6th Edition) on the topics of legal & lawful.

- He read from the Black's Law Dictionary as a metaphor for the lack of notice of the 2018 meetings for the zoning change.
- Feels that advertising in the Coastland Times is antiquated and where it may be legal & right under the law, it is unethical.
- Stated that right is a direction, and correct is the way things should be.

Amy Stone - 165 Burrus

- Stated that all it would have taken was a notice about the Zoning Change in the Wanchese Post Office to get the word out to the community.
- Discussed how she lived in Ocracoke and how it was very similar to Wanchese, but it ended up being the goose that laid the golden egg for Hyde County.
- Feels that this project should be stopped, especially if Nags Head & Kill Devil Hills does not want it. She asked why Wanchese has to get it?

Lorraine Tillett - 188 Old School House Rd.

- Thanked the Planning Board for giving them more than three minutes to speak and that they are putting their faith and trust into the Board.
- Presented the Planning Board with a packet of all of Wanchese awards.

Brrimage Silver - 229 CB Daniels Sr Rd.

- Discussed one of the biggest concerns which was the lack of notice that the community received.
- Referenced the 2009 Land Use Plan on the growth and development and how it needed to be managed.

Nan Willis - 365 & 383 Old School House Rd.

- Wanted to ensure that they were allowed to be present when the developers were presenting the project to the Planning Board.

Audra Shackelford - 132 Roscoe Rd.

- Lives on ten acres and boards twelve horses at this location.
- Stated that she is very vested in the Wanchese Community, and how she has assisted many other people become vested in Wanchese.
- Complimented Noah, Planning Director, for his assistance with helping her understand all of the different terms: Workforce Housing, Affordable Housing, etc.
- Expressed that she knows Brad Alexander, Developer.
- Stated that it is not that business owners do not want to provide housing for their employees, but there is an opportunity here to be smart with the planning of this project.

- Noted that she had a conversation with a Wanchese Firefighter and they said that when there is a big fire in Wanchese you might only get two or three firefighters there to put out the fire.
- Stated that there are some properties in East Lake for \$285,000 & they are not selling.
- Feels that if Dare County does not take a step back and look into what they are doing mistakes are going to be made that the grandchildren will have to pay for.

Michael Basnight - Manteo

- Spoke on behalf of his mother who resides on Lillie Ln. and other family members who are from Wanchese.
- Stated that he understands that there is a huge difference from the Planning Board and the Board of Commissioners.
- Expressed that he has lived in many different areas which included Chicago, San Diego, and Austin and has seen many developments go wrong.
- Stated that the Cluster Homes were seen as a threat in areas like Clayton, GA.
- Discussed the Environmental Impact that the Cluster Homes will have on Wanchese and thinks it would be reasonable to look into CSI to do a scientific multi-year study.
- Advised that this should go back to the County Commissioners and have this be a Public Use Development that will have to be managed by the County to ensure policing will be done.

Britton Shackelford - 132 Roscoe Rd.

- Discussed the frustration the Wanchese community has with the zoning change and cluster home project because the Wanchese community zoned itself after Mr. Foster from Hatteras made the recommendation to do so. They thought they had prevented this situation.
- Stated that it's odd to hear from someone who does not live in Wanchese to have a project in Wanchese.
- Expressed that Brad Alexander owns property all over Dare County & he could build this development on those pieces of land instead of in Wanchese.
- Stated that when the cluster homes were originally being discussed they were portrayed as Accessory/Auxiliary Dwellings, not cluster homes.
- Asked how many people are actually going to want to live in these homes & that they are smaller than his boat.
- Stated that he is very familiar with Brad Alexander and feels that the quality of the building & the affordability of the homes will not be there.

Public Comment Closed at 8:06 P.M.

Chairman Finelli stated that he has been on the Planning Board for 20 years and this is the best attended meeting he has ever seen. He went on to say that Dare County is a fabulous place and we are a victim of our own success. The success unfortunately has caused problems which include affordable and workforce housing and the Board of Commissioners are working hard to try to solve the issue. He acknowledged that the biggest concern he heard was that the zoning change was done without any notice and he feels that the county needs to look into how they notify the public about zoning changes.

NEW BUSINESS CONTINUED

Special Use Permit Application No. 3-2023 for The Villages at Old Wharf Road Cluster Home Group Development at 0 Old Wharf Rd (Parcel No. 025921000), Wanchese, NC, Applicant Brad Alexander

Chairman Finelli started by stating that the Planning Board does not approve or disapprove the special use permit applications. They review them against the ordinance and sometimes there are conditions they can bring up, but they do not make recommendations.

Noah Gillam, Planning Director presented his staff comments as written below:

A special use permit application for a cluster home development has been submitted by Brad Alexander of Aria Construction. The property is identified as parcel 025921000 in the Dare County Tax Records, and is located on Old Wharf Rd in Wanchese. The parcel is zoned Wanchese Village Residential (VR) and cluster homes are permitted as a special use. Mr. Alexander is currently under contract to purchase the property from the current owner James V Daughtry. As part of the special use permit application Mr. Alexander has provided a letter from Mr. Daughtry that gives him permission to apply for a special use permit on the parcel for the development of a Cluster Home Group Development. It shall be noted that a special use permit shall run with the land and not be affected by a change in ownership of the property.

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

occupancy is defined in the County Zoning ordinance as residential dwelling that is occupied and used for residency and housekeeping purposes for a period of 31 days or more.

In June of 2018 at the request of the Outer Banks Chamber of Commerce the Dare County Board of Commissioner tasked the Dare County Planning staff and Planning Board to draft proposed amendments that would facilitate the development of residential structures for year-round housing thereby creating more housing opportunities in a variety of structures. In following months the Planning Board and Planning staff developed a set of proposed amendments and conducted a public hearing on the proposed amendments. One of the proposed amendments was the cluster home development ordinance. The proposed amendments were forwarded to the Board of Commissioner in October 2018, and after a public hearing the Board of Commissioner voted to adopt the amendments. As a result cluster homes were added as special use in twenty four zoning districts in Dare County.

In April of 2019, six months after the adoption of the cluster home language into twenty four zoning districts the Board of Commissioners instructed planning staff to draft language that would expand cluster homes into other zoning districts. The Planning Board in June of 2019 conducted a public hearing on the proposed amendments that would add cluster home developments as special uses in eight additional zoning districts. The Planning Board recommended approval of the amendment and the amendments were forwarded to the Board of Commissioners for review. On September 16, 2019 the Board of Commissioners held a public hearing on the proposed language, at the close of the hearing the Commissioners voted to approve the amendments expanding cluster homes as special use into eight additional zoning districts. As a result of the amendment cluster home developments were added as special uses in ten of the Wanchese zoning districts.

The parcel for the proposed cluster home group development is 10.53 acres (458,715 SQ FT). Section 22-31.1 allows for lot coverage of 30% of the total lot area and any dwelling constructed as part of the cluster home development shall not exceed 1,200 square feet of heated/conditioned space. The applicant is proposing to construct 60 individual dwelling units on the 10.53 acre parcel. The dwellings will be divided between two and three bedrooms, twenty-four of the dwellings will be three bedrooms with 1,120 square feet of conditioned space, and thirty-six dwellings will be two bedrooms with 960 square feet of conditioned space. The proposed site plan shows the dwellings being separated by the 15 foot minimum requirement.

Section 22-31.1 requires that cluster home developments that cannot be properly serviced by emergency or service vehicles from an existing abutting road or street, shall be made accessible to such vehicles from a 30ft right-of-way with 20 feet of paved improvements. The applicant is proposing to install a centralized 22 foot wide paved main access road with 30 feet of right-of-way, with the individual units being accessed off of six 20 foot wide paved side streets with 30 feet of right-of-way terminating in cul de-sacs as depicted on the site plan. The proposed improvements as shown on the site plan show a built upon area of 28.16% (129,925 SQ FT) of the allotted 30% (137,614 SQ FT) meeting the requirements of the ordinance.

The 10.5 acres parcel is currently vacant and vegetated with a mix of hardwoods and pine trees. The property was surveyed on December 6, 2022 by Seaboard Surveying. As part of the surveying process the applicant had a wetland delineation completed on the property by George Wood of Environmental Professionals. The delineation confirmed three pockets of wetlands totaling 4,032 square feet. It is the applicant intention to fill these wetlands. Before ground disturbing activities occur, copies of the Army Corp of Engineers wetland fill permits shall be provided to the Dare County Planning Department. A condition has been added to the draft Special Use Permit to reflect this condition.

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

Wastewater for the proposed development will be handled by six onsite septic systems with ten units hooked to each system. Before issuance of building permits the applicant will have to apply for septic permits through Dare County Environmental Health. Copies of these permits shall be provided to the Planning Department as part of the building permit process.

Parking for cluster homes shall be provided at a rate of one parking space per bedroom of each cluster home, with 50% of the required parking being of an impervious surface of concrete or asphalt. The applicant is proposing to construct the dwellings on piling foundations with the required paved parking being underneath the dwellings. The remainder of the parking space will be constructed of gravel in front of the individual units. The total number of spaces required for the development is 144 spaces, and The Dare County Fire Marshal has reviewed the site plan and has provided comments.

Per the fire marshal there shall be no parking allowed on the roads within the development, and signage indicating such shall be installed prior to dwelling construction activities. The site plan depicts an emergency vehicle access gate being installed along the property boundary that abuts Brinkly Dr (SR 1323). This gate shall have a clear opening of not less than 20 feet with a lock keyed to the Roanoke Island VFD Knox box key. There shall be "No Parking-Fire Lane" signs located on each side of the gate. All Roads shall be constructed of a material to have an all-weather surface capable of carrying the imposed weight of fire apparatus of at least 75,000 pounds. The needed fire flow for the proposed development is 1,000 gallons per minute; this will need to be certified before construction activities can begin on the property. Conditions have been added to SUP that reflects the fire marshal requirements, and his comments are attached to this memo for the board's review.

Dare County Public Works reviewed the site plan and had concerns about the original proposal for dumpsters to be located in each of the six cul-de-sacs. The project engineer was able to design a centralized location at the end of the main road servicing the development. This centralized location alleviates sanitation trucks going down the six cul-de-sacs to provide trash pick-up. An updated site and utility plan page is included in the packet.

The applicant is proposing to install a vegetative buffer along the perimeter of the property, and a 6-foot high privacy fence along the eastern boundary where the property directly abuts neighboring residential lots. The Cluster Home Ordinance does not require a vegetative buffer or fencing to be installed but since the applicant shows it on the site plan staff feels that it appropriate to add conditions to the draft SUP addressing the buffer. It is staff's recommendation that the applicant leave some of the existing hardwoods that surround the property and reinforce the buffer with indigenous deciduous and/or evergreen trees, and indigenous dense shrubs. Conditions have been added to the draft SUP that addresses the buffer.

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

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

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

Brad Alexander, Cliff Smith, & David Neff were all present at the meeting.

Cliff Smith started by stating that they all recognize how important this is to the community and that they respect the community's concerns.

Mr. Neff, the engineer, started to address some of the concerns that were presented at the meeting as follows:

- He stated that the cul-de-sacs are 60 ft. and there is 50 ft. of paved area and the other 10 ft. is graveled surface.
- The storm water is handled on site and he has proposed shallow swales and basins. He stated that the water table is about five and a half feet and the bottom of the basins are right at six and a half feet which is allowing them to keep a foot of spacing between the bottom of the basin & the actual water table. He stated that they are handling 8 inches of stormwater instead of the 4.3 inches that is required by the state.
- He discussed the concerns with DOT and the right-of-way and stated that they are hiring VHB out of Raleigh to do a Traffic Impact Analysis which will show how safe that intersection will be. They will report their study to DOT and DOT will have to approve the study.
- Mr. Neff then began discussing the septic systems and stated that the proposed system is called a TS2 System. He explained that it technically brings drinking water back out after it is done processing. Stated that they use this type of system at the marketplace in Southern Shores and at the Sea Ranch where they are processing 20,000 gallons a day in comparison to each system on the proposed subdivision will be doing 2,080 gallons a day. He also stated that they will have to have an operator and if an alarm goes off they have 24 hours to get there and address the situation.

David Hines asked if they have spoken with Dare County Environmental Health and gotten a site evaluation done. Mr. Neff responded by saying that they have not been in contact with them yet but they have had a soil scientist come out which gave them data on the storm water table. He also announced that they will have to have a hydraulic analysis done prior to doing any work with septic systems.

David Hines asked if they were going to have any HOA documents that will include monthly fees. Brad Alexander responded by stating that there will be HOA fees and he is currently working on them. Mr. Alexander then explained that most of the homes will be sold and he may keep a few to rent out long term. The ones he will rent out will not be for thirty days, they will be for a year or more. He also stated that on the homes that are going to be sold he will put it in the deed that if they were to be rented out they have to be rented for six months or more.

Buddy Shelton asked at what point does DOT approve the proposed entrance. Mr. Neff answered by saying that DOT will probably do the approval/recommendation when the TIA is completed. Mr. Gillam stated that part of the Special Use Permit there is a condition that states before ground disturbing activities begin on the property that approval and permission from DOT have to be submitted that states the allowance for a driveway to be installed.

Terry Gore stated that when he went out to the proposed property, he had concerns with the length and sharpness of the curve. He acknowledged that they are having a third party come out of Raleigh to review it, but asked for them to provide more detail to help calm some of the anxiousness. Mr. Neff referenced page four of the plan and pointed out that they moved the vegetation buffer back as much as possible, which gives them 340 feet of vision each way and the TIA will be able to prove this.

Terry Gore then discussed the storm water runoff and asked to help him understand it. Mr. Gore stated that the last time he was out there after a rainstorm all of the properties located around the proposed cluster home location were all full of standing water. He feels that cutting down all of the trees and plants in that area that help soak up this water and replacing it with impervious surfaces does not seem to be a solution. Mr. Neff then began explaining that on the soil analysis there is 20 inches of restrictive layering on the top of the proposed property and then it turns into sand. He explained that the restrictive layer is what is preventing the water from being absorbed, and once they remove that it will then become sandy soil which is where the stormwater will go. He then referred to page three of the site plan and discussed the storm water basins.

Mr. Gore then wanted confirmation that the cul-de-sacs will have enough clearance for emergency vehicle apparatus and utility vehicles. Mr. Neff explained that with the additional gravel section that has been added around the paved cul-de-sacs there will be enough room. Mr. Gore asked for information on a secondary access because he feels that 60 units is a lot to only have one entrance. Mr. Neff said that it was something that could be looked into but DOT has stated that Brinkley Dr. has too many discrepancies to be used. Mr. Gillam also stated that there is an emergency gate for emergency vehicle apparatus that would and could be utilized if needed.

Mr. Gore finished by discussing the ownership of the septic systems and who will be responsible for these septic tanks if they happen to have any issues. Mr. Alexander stated that in the beginning he would be the point of contact and once 51% of the homes have sold the President of the HOA would be the point of contact.

David Hines stated that he is concerned that these cluster homes will end up being rented out by the week and Mr. Alexander responded by saying that he does not have to worry about that and that is not his intention.

David Overton wanted to confirm the exact measurements of the cul-de-sac and Mr. Neff responded by stating they were 60 feet.

Chairman Finelli asked Mr. Alexander if he read the conditions that were listed in the draft Special Use Permit and Mr. Alexander stated that he had. Mr. Neff then explained that most of those conditions had been met on the second set of plans.

A copy of the draft Special Use Permit, site plan, and fire marshall's comments were provided to the board for their review. Mr. Gillam, Planning Director, then read the conditions from the draft Special Use Permit aloud.

David Hines recommended a condition that a homeowners document shall be drafted and submitted to the Planning Director and County Attorney prior to the County Commissioners review that includes an estimate of the monthly annual dues. Mr. Hines recommended that it should also address the maintenance of the roads, stormwater improvements, & wastewater systems and it should include language prohibiting filling or modifying the stormwater infiltration area.

Mr. Alexander explained that the homeowner will not have authority to fill in the yard or stormwater infiltration areas because they do not own the property, they will only own the footprint of the house.

Mr. Gillam voiced that in order for that document to be required it would have to be supported by a governing document, which would be the zoning ordinance. Mr. Gillam stated that he would have to discuss this with the County Attorney. Mr. Alexander is in favor of this and expressed that he was willing to provide this documentation.

John DeBoy asked if there was anything on sedimentation control and Mr. Gillam responded by saying that it is addressed in Condition 14.

Chairman Finelli voiced that he finds that the condition that Mr. Hines wants to add is reasonable and it is something that can be considered.

Chairman Finelli specified that the requirements for Cluster Home Developments are found in section 22-31.1 of the Dare County Ordinance.

Terry Gore stated that Mr. Alexander has met all of the requirements of the ordinance, but expressed that some of the best people of Dare County were in attendance at this Planning Board Meeting. He encouraged Mr. Alexander to work with the local community. He hopes that this development is successful and Mr. Alexander finds a way to get along with the community and it provides good year round housing. Mr. Alexander responded by saying that he is not a cheap builder and he is not going to build a development that will tarnish his name.

David Overton commented that he understands what Mr. Alexander is trying to do, and that he meets all the requirements on paper, but there is more to this than just paper. He explained that Wanchese is a community that depends on each other and has thrived on each other for generations. He expressed that 60 homes on ten and a half acres is pushing it and that this plan needs to be rethought.

The Planning Board reviewed the draft Special Use Permit and deemed the conditions and site plan to be reasonable and appropriate subject to the following additional condition.

1. A homeowners document shall be drafted and submitted to the Planning Director and County Attorney prior to the County Commissioners review that includes an estimation of the monthly annual dues and addresses the maintenance of the roads, stormwater improvements, and wastewater systems. It should also include language that prohibits filling or modifying the stormwater infiltration area.

This item will be forwarded to the Dare County Board of Commissioners for their consideration and will be subject to quasi-judicial review at the Board of Commissioners

level, which requires sworn testimony and other rules of procedure specific to quasi-judicial items.

OTHER BUSINESS

None.

ADJOURNMENT

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

Vote: Ayes – Unanimous

The meeting adjourned at 8:59 p.m.

Respectfully Submitted,



Planning Board Clerk

APPROVED: March 7, 2023



Beth Midgett
Dare County Planning Board