

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Tuesday, April 4, 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

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

MEMBERS ABSENT None

APPROVAL OF MINUTES

Chairman Finelli stated that the date on pages two and three of the minutes were inaccurate and it had been updated to show the correct date. There being no other corrections or additions to the minutes of the March 7, 2023 meeting of The Dare County Planning Board, Terry Gore made a motion to approve the minutes as submitted. Buddy Shelton seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

At 6:05 Chairman Finelli outlined the procedure for making Public Comments. He announced that the Planning Board will not be reviewing nor discussing the Cluster Home Project that has been sent to the Board of Commissioners, they are here to discuss the Cluster Home Ordinance.

Craig Parker

- Feels that everything the people are saying is falling on deaf ears.
- Asked if there was a moratorium that could limit how much fill they can put on lots.
- Stated that Dare Challenge has 4 to 5 feet of fill, but there are no neighbors around to flood.
- Stated that the main concern that keeps getting swept to the side are the children.
- Explained that the engineer from House Engineering could not find the fire hydrants on the site plan for the Wanchese Cluster Home Project.
- Does not want cluster homes to go all through Wanchese.
- Discussed Safe Harbor and how they have already sent letters to owners of the fish houses and how they are known to ruin fishing communities.
- Stated that Dare County is founded on commercial fishing, and how much money comes into the county because of it.

- Stated that there needs to be standards on cluster home projects to make it appealing to families and younger individuals.

Mitchell Bateman

- Stated that he had sent emails to the Commissioners, Planning Board and Planning Staff seeking information.
- Asked if the Community of Wanchese has the same authority to remove the Cluster Home Ordinance that the Commissioners had in 2018 and 2019 to put the Cluster Home Ordinance in place.
- Explained that there is a process to be used, and there needs to be a recommendation from the Planning Board to begin the process.
- Stated that Wanchese was encouraged to write its own zoning and asked the Planning Board to consider putting the Wanchese Zoning back to the way it was.
- Asked the Planning Board to ride through Wanchese during daylight to see all of the signs.

Allison Beacham

- Feels that an ordinance got put into place and that many people were not made aware of.
- Expressed that it is not one person's fault, and that it is everyone's fault.
- Asked the Planning Board to revise the Ordinance of Wanchese, and see what can be done to improve Wanchese.
- Feels that there are a few things that have to be done before an influx of people move to Wanchese. Which include the following: street lights, lower speed limits, sidewalks, removal of vegetation that creates blind spots in the roadways.
- Stated that we need to do what is best for the future of our children.

Lori Tilliett

- Stated that she realizes that the current Planning Board are not the people that put the Cluster Home Ordinance in place but they can be the ones who fix it.
- Stated that the community did not know this was happening when it happened and can not believe someone would put cluster homes in Dare County.
- Stated that cluster homes are not right for our county, nor the future children.

Mike Burrus

- Born and raised in Wanchese and loves it for the way it is.
- Stated that there are a lot of great families in Dare County and wants to see that continue.
- Feels that the Cluster Home Ordinance is not a benefit to the people of Dare County.
- Stated that anytime we make arrangements to let a project be built to a lower standard than what the building code requires, it is not a benefit to anyone and it will be a lesser product.
- Feels that there needs to be a complete repeal of the cluster home ordinance.

- He concluded by stating that he does not like the direction that Dare County is currently heading.

Sybil Ross

- Stated that she was employed by the Albemarle Pamlico Estuary Study.
- Explained that there were millions of dollars that went into this study that benefited the whole coast.
- Stated that the GIS system that Dare County uses today came from the Albemarle Pamlico Estuary Study.
- Explained that her father was a previous Mayor of Manteo and was the only one that ever got affordable housing in Dare County, which is located behind Food-A-Rama.
- Acknowledged that the Board of Commissioners and the Planning Board have a hard job.
- Explained that she is the accountant at Harris Teeter and how they do not have enough employees.
- Feels that there is a way to move forward which involves looking back at the Coastal Management Act.
- Feels that a vision needs to be created of who and what we want to be in 20 or 30 years from now. There needs to be a plan from the floor up and the science needs to be used.
- Expressed that 20 years in geological time is not a long time.

Joseph T. Willis

- Stated that he was born in Edenton, but grew up in Wanchese.
- Explained that he holds 17 unique international co-council certifications and he was a past President of the Virginia Chapter of International Electrical Building Inspectors, where he still sits as a Board Member.
- Expressed that he has dedicated the majority of his professional career to safety.
- Discussed Section 152.20 of the Dare County Ordinance.
- Stated that the 2018 Statewide Fire Prevention Code was adopted by the NC Building Code.
- Explained fire access roads and gave the exact definition.
- Discussed the Cluster Home project in Wanchese and that the pipe stems that come off these homes are dead end cul-de-sacs and all of them are an excess of 250 feet. He explained that the NC Fire Code says that if you have a pipe-stem or dead end road with an excess of 150 ft you must have an approved turn around for emergency vehicle apparatus.
- Stated that he does not envy Steve Kovacs, the Dare County Fire Marshall.
- Explained that 503.2 of the NC Fire Code states that the required turning radius of an emergency vehicle apparatus shall be determined by the fire official.
- He compared Steve Kovacs comments from the Murray Bay Subdivision from the Planning Board Meeting held on 1/30/23, to his comments on the Wanchese Cluster Home project. He feels that Steve Kovacs requirements are not consistent between the two.

- He concluded by stating that no one listened to him before about this issue, and he is going to take it to Raleigh and go before the Building Code Council and have them rule on the Wanchese Cluster Home project.

Angel Corey

- Stated that there are people that have been putting pressure on this island for 20 years and gave multiple examples.
- Does not want Roanoke Island to become as crowded and developed as the beach.
- Expressed that Article IV. Planned Unit Development was deleted in September of 1994.
- Asked the Planning Board to remove the Cluster Home Ordinance and allow the quality of life that they have in their community remain.

Lorraine Tillett

- Expressed how thankful she was that the Planning Board was reviewing the Cluster Home Ordinance.
- Stated that the community does not want cluster housing at all, and that they want their community to be developed the way they want it.
- Explained that she was approached by the Board of Commissioners in 2004 to help zone Wanchese.
- In her opinion, she believes that everyone in the community could have been contacted to assist with the Wanchese zoning.
- Stated that a county official informed her that the R-1 District was considered with the Cluster Home Ordinance but it would not be successful because there are so many subdivisions, but expressed that she disagrees.
- Wants the Cluster Home Ordinance to be removed from all of Wanchese and Roanoke Island.

Sandra Barile

- Asked the Planning Board to consider removing the Cluster Home Ordinance all together.
- Also asked the Board to review the notification system that is used on zoning changes, that a small notification in the Coastland Times is not enough. She recommended that they consider attaching a notice to tax or water bills.

Ralph Barile

- Feels that when the Cluster Home Ordinance was first proposed, no one realized what was going to happen.
- Quoted a previous statement which stated that "Cluster Homes are Single Family Dwellings and there are no conflicts putting them in single family districts." Although he disagreed with this statement.
- Asked the Planning Board what are their recommendations to the Board of Commissioners for removing the Cluster Home Ordinance out of Single Family Residential Districts.

Nancy Silver

- Discussed all of the studies on the marsh and how she was involved.
- She wants everyone to recognize what was recommended in the past and what all is happening now.
- Feels that Dare County should follow the Land Use Plan.
- Explained the Nature Deficit Disorder that she feels is affecting children.
- Expressed the importance of nature, trees, and water within neighborhoods.
- Would like to see the Cluster Home Ordinance removed out of the zoning for Wanchese.

Rex Mann

- In agreement with Nancy Silver about the children having a lack of time outdoors.
- Stated that there were roughly 3,000 residents in Wanchese and there were only 60 newspapers delivered that advertised the zoning change in 2019.
- Expressed that he left the Board of Commissioners Meeting very disappointed, and he felt like the questions that were asked were staged.
- Stated that Dare County is the goose that laid the golden egg that is motivated by greed.
- Expressed that \$300,000 for a two bedroom home where you do not own the property is not feasible for most people that are in the workforce of Dare County.
- Feels that they are in the cluster home situation because they were not aware of what was happening.
- Discussed the over development and how Dogwood Hills neighborhood flooded due to the 20 inches of rain that fell in 2018. This led Dare County to consider their first engineered stormwater management project, which cost Dare County a large amount of money.
- Asked where the water in Wanchese is going to go and that Dare County will have to pay to get all the water pumped.
- Stated that Dare County needs to stop spending the citizens tax dollars without listening to public comments.

Michelle Lewis

- Received two Master Degrees from Yale University, runs a non-profit called the Peace Garden, and is a Pastor at a church in Manteo.
- Stated that despite all of the wealth in Dare County there are justice issues and a lot of need in the communities. She stated that most people do not make enough money to live.
- Discussed the infrastructure of Dare County and the lack of police and emergency services.
- Sits on the Town of Mateo Community Police Advisory Board and stated that they are short staffed and need two more officers.
- Talked about the influx of individuals that have come into our communities and how Dare County Schools is already overpopulated and at capacity, the roads

can not withstand the traffic that is already here, and our police are already overworked.

- Stated that if the county cares about the public servants like they often say they do they will take a better look at how housing developments are constructed.
- Expressed that it is a tragedy that people live in the trailers behind the Elizabethan Inn that The Board of Education owns.
- Talked about Long Term Water Quality Assessments and how the more that we continue to build the more water quality around the establishments will change. She referenced how Chairman Woodard asked the developer if their equipment would damage the water aquaphor. She then explained that things that can cause depletion or damage to water aquifers are stressors like changes in precipitation and snowmelt patterns, withdrawal of groundwater for drinking and irrigation, and impervious paved surfaces that prevent precipitation from recharging the groundwater.
- Stated that as the water is getting sucked out we can not replenish it at a rate that is fast enough to sustain the population growth and density that is discussed with all of the developments that are proposed.
- Explained that healthy environments are not just about access to nature but ensuring that smart building is taking place that represents the people of the community.

Lynn Davis

- Began by quoting Noah, Planning Director, that he previously said that they were going to police the Cluster Home Development the best that they could.
- He then asked the Planning Board who is going to police the Cluster Home Development.
- Asked what is going to prevent these homes from ending up on VRBO like the other houses that were titled workforce/affordable housing in Hatteras.
- Owns three properties on Brinkley Dr. and will not build homes for his son on them because of surrounding properties that are not maintained.
- Stated that he hopes the Planning Board considers everything that is going on.

Amy Philips

- Moved here in 2009 and had to move away once husband became ill.
- She moved back years later and sometimes questions her decision because of the overbuilding and too much traffic.
- Understands that there are a lot of people who have owned property for many years who now want to sell it and make a profit.
- Expressed how much she loves Wanchese and the way of life that they try to hold on to.
- Stated that if she had the money and the energy she would fight it as hard as possible because it is wrong for the Wanchese Community.

Mindy Ralph

- Stated that she is in favor of removing the cluster home ordinance out of Dare County.
- Understands that development is inevitable, but wants it to be done the right way.
- Explained how she and her husband own a dumpster company that makes money off of people constructing homes nonstop, but they construct these homes in the right manner.
- Feels that no one wants to have 60 homes built beside them.

Kendall Austin

- Agreed with all previous speakers that are against the Cluster Home Project.
- Asked the Planning Board to remove the cluster home ordinance and did they want to ruin the county for money.
- Stated that if building continues on this island it will be ruined for everyone.
- Expressed that she is not disagreeing with growth, but wants it to be done correctly and that Brad Alexander should do a subdivision with 15,000 square foot lots so children can have a place to play and emergency vehicles can get down the roads safely.

Lilly Button Daniels

- Stated that she had her turn and worked very hard and diligently on what the citizens wanted from Wanchese.
- She was very excited to see how many people were in attendance at this meeting and how they were stepping up to the plate.
- Explained that she wants the Planning Board to help Wanchese get out of the situation they are in.
- Stated that she has an issue with the notification process when a zoning change is happening and feels that it could be improved.

Laura Mann

- Stated that she feels that the housing crisis has developed due to AirB&B rentals and it has taken away housing from many local residents.
- Explained how her daughter has to move back home because she can not afford a place to live.
- Asked the Planning Board to consider regulating AirB&B's which will help with the housing crisis versus building cluster homes.

Craig Parker

- Asked the Planning Board if there could be a stipulation on cluster homes to prevent them from being able to be sub-leased.

Belinda Fulton

- Expressed that the cluster home zoning ordinance should be removed.

- Feels that despite Brad Alexander's comments someone will rent the cluster home for a year and in the meantime they are going to try to find their forever home.
- Stated that this will end up in a large number of transient people which is not good for the community.

Chris Carrey

- Stated that when something is more than the sum of its parts or greater than the sum of its parts, you mean that it is better than you would expect from the individual parts because of the way they combine at a different quality.
- Explained that he imagined that the Cluster Home Ordinance was written in terms of units, and explained it as having multiple units and lots and expanding it out larger than their individual parts.
- Discussed the Board of Commissioners Meeting and that certain guidelines got brought up and the Civil Engineer would do less or more depending on the situation, which means to him that the guidelines need to be adjusted.
- Feels that the Cluster Home Ordinance does not scale.
- Discussed the lost internet connection in southern Outer Banks and explained the reasoning behind it being that there is a single threaded tube of fiber running through the Wildlife Refuge and National Park. There is only one way in and one way out. He stated that Wanchese is similar by only having one way in and one way out, whereas Manteo and the beach have auxiliary exits.

Public Comment Closed at 7:17

OLD BUSINESS

-None-

NEW BUSINESS

Preliminary discussion on potential revisions to Section 22-31.1 Cluster Home Ordinance

Noah Gillam, Planning Director addressed the Planning Board. His comments are stated below:

Last month the Dare County Board of Commissioners at their March 6 meeting requested that the Planning Board revisit the Cluster Home Ordinance for possible revisions. The request is in response to citizen comments that have been received by the Board of Commissioners, Planning Board, and Planning Staff over the proposed cluster home development on Old Wharf Road in Wanchese. It shall be noted that if any revisions are adopted, these amendments would not affect the cluster home development that has been proposed on Old Wharf Road. Any amendments adopted would only affect future developments.

In 2018/2019 the Dare County Board of Commissioners adopted a series of amendments that would increase the number of year-round housing options in Unincorporated Dare County to help combat the housing crisis. As a result of these amendments the Cluster Home Ordinance was adopted and allowed for cluster home developments as special uses in 34 zoning districts. The Cluster Home Ordinance allows for the construction of more than one single family dwelling on an individual parcel. The regulations that were adopted were based on the existing group development standards but with reduced property setbacks, and reduced separation of dwellings. Since the adoption of the Cluster Home Ordinance, five cluster home developments have been approved in Unincorporated Dare County. Based on the public comments received staff has created a list of possible revisions to the Cluster Home Ordinance for the Planning Boards discussion. Other revisions can be added as part of the board's discussion.

1. Increased setbacks and separation of dwellings
2. Increased Right-of-Way widths
3. Open space requirement that is free of improvements including wastewater systems and stormwater infrastructure
4. Incremental density limitation dependent on parcel size
5. Removal from zoning districts
6. No changes

The findings of the Planning Board will be presented to the Board of Commissioners before proposed amendments are drafted, and the text amendment process begins.

Chairman Finelli began the discussion by stating that he wanted to set aside Wanchese and any other possible districts that they feel this ordinance should be removed from. He explained that he wanted them to focus on just the ordinance as it would apply to any district it would be in. Chairman Finelli also expressed that the ordinance has had some positive impacts on workforce housing and prefers not to just throw it out completely.

Mr. Gillam made a comment in reference to a statement made by Mr. Davis during the Board of Commissioners Meeting about rentals in southern Outer Banks that have been turned into VRBO's. Mr. Gillam expressed that those homes were not constructed as a cluster home project, that they were a group development that was done years prior to the Cluster Home Ordinance being adopted.

Terry Gore inquired what the minimum lot size is for a residential dwelling in the VR District and what the maximum size for an accessory dwelling unit is in the VR District. Mr. Gillam responded by stating that the minimum lot size is 15,000 square feet and the maximum size for an accessory dwelling unit is 900 square feet. Mr. Gore explained that doing away with the Cluster Home Ordinance would not change the density issue in that area and that things get extremely complicated in these situations.

Mr. Gore then addressed a couple of items which are listed below:

- He explained that the Planning Board is open to criticism on the fact that the way zoning changes are advertised are antiquated and will listen to any ideas anyone has to improve this process.
- Personally wants to remove the Cluster Home Ordinance from the VR District.
- Stated that as they go through this discussion he wants to take a look at potential scalable density in the areas where the Cluster Home Ordinance will remain.
- Expressed that he wants the Board to look at what can be done with density on properties in general because as long as there are loopholes people will find them.

David Hines stated that he believes the Cluster Home Project is over-developed but moving forward they have to be careful because you do not want to eliminate having multiple homes on one individual parcel. The intention is to help the community but prevent something like the proposed cluster home project from happening again.

John DeBoy began by expressing that no one can deny the passion from the Wanchese Community. He explained that he does not want to completely remove the ordinance but believes there is room for revision and with smart minds there can be a solution that works for everyone.

Buddy Shleton acknowledged everyone's statements and feelings and expressed that he agrees with the majority of them. Stated that nobody wants to live next to a cluster home development but if something does not change everyone will. He feels that there are other ways to solve the housing issue in Dare County rather than cluster home housing. Mr. Shelton then stated that they can limit things by size, requiring a playground, or having larger roads, but the same thing can still happen again. He feels that the Planning Board needs to think hard on this topic or remove the ordinance all together.

Beth Midgett stated that she was on the Planning Board when Wanchese zoned itself, and it was very impressive how a community came together and overcame a challenge. She expressed that the intention of the cluster home ordinance was to help people and if it is not helping people then it needs to be discussed.

Mr. Gillam stated that discussions need to be held and the revisions need to be looked at to see what could be removed or changed. He also wanted the Board to think about how this would change other zoning districts because the Cluster Home Ordinance has worked successfully in other areas.

David Overton began by letting everyone know that he hears everyone and that he agrees with every single one of them. He discussed his connection to Dare County on a personal level and when he went away to college to study music he always felt like something was missing, and it was Dare County. He expressed that regardless of what the stats, restrictions, or setbacks say, it all comes down to the way of life for the Outer

Banks of North Carolina. He stated that the Board may not have all of the answers right now, but they have to find the answers that are going to make this work for everybody and that development needs to be controlled.

Chairman Finelli agreed with Noah by saying that there are successful cluster home projects in other unincorporated areas of Dare County. He stated that there is something similar within the Town of Southern Shores in their RS-10 zoning district where they allow 10 homes per acre. Chairman Finelli then began to discuss one of the issues being the scalability and that it needs to be discussed.

Mr. Gillam began discussing four possible revisions that would scale back the potential for development on other parcels. They are listed below.

- Increased setbacks and separation of dwellings.
- Increased right-of-ways
- Open space requirements
- Incremental density limitations

Chairman Finelli acknowledged some of the public comments about open space that will allow children to have room to play. He inquired about there being a limitation to 30% of coverage and should that have already provided enough open space? Mr. Gillam responded by stating that just like many single family dwelling projects, the septic, repair areas, or other infrastructure can be on the remaining space. Having open space requirements will have areas of land where no infrastructure will be permitted on the open space areas.

David Hines asked Mr. Gillam what his recommendation is on the size of the open space requirements. Mr. Gillam responded by saying he feels like it would have to be measured on an acreage calculation. Mr. Hines also asked if there was a possibility of limiting the amount of houses on one septic system even if the state approves it. Mr. Gillam expressed that he has reached out to the UNC School of Government to get that answer, but doing his own research he does not believe that is an option.

Buddy Shelton asked if we increase setbacks, add open space requirements, and other limitations are we making it a Special Use Subdivision? Mr. Gillam replied by saying that Special Use Subdivisions are on smaller parcels.

Terry Gore stated that they have seen success with cluster homes on smaller parcels, and building smaller structures lowers the price.

David Overton inquired about the turn around areas for emergency vehicle apparatus and Mr. Gillam stated that they can set requirements that the turn around areas for emergency vehicle apparatus have to meet the NCDOT specifications.

Chairman Finelli stated that before any changes are made that they need to decide if they will affect every district that the cluster home ordinance is in, or just certain districts. Mr. Gillam stated that it could also be done in a staged approach.

Chairman Finelli explained that they may be able to make a recommendation that some districts have the cluster home ordinance removed and in certain districts we put in more conditions that restrict some of the development.

Mr. Gore announced that he wants the Planning Board to go ahead and make a recommendation to remove the cluster home ordinance from the VR Zoning District. Mr. Gillam responded by saying that if that is the route the Planning Board wants to take that it should not just be removed from the VR District but for all of the Districts in Wanchese that it is currently in. Buddy Shelton stated that if they are going to remove it from all of Wanchese they should remove it from all of the other districts throughout unincorporated Dare County. Mr. Shelton expressed that if you leave it in all of the Districts except Wanchese we will end up back in the same situation we are in now. Mr. Gillam explained that Manns Harbor is almost self-governing because they do not have a county water source. The first thing that gets looked at on a site plan in Manns Harbor is where the drafting source of water is located in case of a fire. Mr. Shelton said that a tank can be installed or there are ponds around that water could be drafted from. He also stated that there are a lot of larger parcels in Manns Harbor that are not developed, and if a cluster home project goes on one of those parcels the people of that community will not be very receptive to it.

Beth Midgett asked what will happen if we remove the cluster home ordinance from all of the districts and what will happen to the cluster homes that have already been constructed. Mr. Gillam responded by saying that non-conforming language would then come into play.

Buddy Shelton stated that Wanchese overwhelmingly does not want the cluster homes and he feels that none of the other villages want it either. He feels that the cluster home project in Wanchese will not be the last one if some changes are not made.

Terry Gore made a motion to remove the Cluster Home Ordinance from the seven Wanchese Zoning Districts.

Chairman Finelli asked to hold off on that motion.

Terry Gore suspended his motion for further discussion.

Chairman Finelli feels that they have good intentions but they have to respect the people's wishes of the community. He recommended making a list of the districts that the cluster home ordinance needed to be removed from at this time and then the Planning Board can go back and revisit it when they have a more clean mind.

Terry Gore asked Chairman Finelli what other districts he recommends to remove the cluster home ordinance from. Buddy Shelton responded that MH-A & MH-B are both residential districts with slight commercial use.

Chairman Finelli expressed that he would like to keep the Cluster Home Ordinance in the Hwy 345 District for possible workforce housing for the Coastal Institute.

David Hines stated that this issue will not be solved tonight and what they are doing is a big deal, and he personally needs more time to review some of the other options. He is fine with the Planning Board removing the ordinance now, but acknowledged the problem will not be solved right now.

Mr. Gillam made it clear that the text amendment process does not happen overnight, and that it takes anywhere from 60-90 days to complete. He also announced that if someone submits a Special Use Permit Application for a Cluster Home during this time it still has to be reviewed.

Beth Midgett stated that anything that happens tonight needs to be revisited no matter what because there has not been a whole lot of feedback from Hatteras Island. Mr. Gillam responded by saying that a Public Hearing will still take place where people can speak their opinions.

David Hines asked if undoing the 2019 Action would solve the problem, Mr. Gillam responded no because some of the 2018 Action included some of the Wanchese Districts.

Terry Gore expressed that he feels like they should take a deeper thought process on the cluster home ordinance but for the time being the individuals that have expressed their concerns need to leave with something.

Beth Midgett stated that areas that are already more dense and/or commercial could be looked at to consider open space and incremental density requirements if the Cluster Home Ordinance remained in the zoning district.

Terry Gore made a motion to make a recommendation to the Board of Commissioners to remove cluster home developments as a special use in the zoning districts: SP-2, SPC, BT, RB, HML, WVC, MC-1, MC-2, Hwy 345, VR, WR-1, MH-A, MH-B, as well as all other residential districts that do not allow multi-family residential developments. Seconded by David Hines.

Vote: Ayes - Unanimous

OTHER BUSINESS

-None-

ADJOURNMENT

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

Vote: Ayes – Unanimous

The meeting adjourned at 8:20 p.m.

Respectfully Submitted,



Skyler Foley
Planning Board Clerk

APPROVED: May 2, 2023



John Finelli
Chairman, Dare County Planning Board