

## MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Tuesday, May 2, 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** 6:03 pm

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

**MEMBERS ABSENT** Beth Midgett  
David Overton  
John DeBoy

### APPROVAL OF MINUTES

There being no corrections or additions to the minutes of the April 4, 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 6:06 p.m. Chairman Finelli outlined the procedure for making Public Comments. He announced that the Board of Commissioners have scheduled a Special Meeting on May 17th, 2023 at 5:00 p.m. to discuss the removal of the Cluster Home Ordinance from 22 Districts.

#### ***Timmy Midgett - Manns Harbor***

- Expressed that he was a member of the original 2007 Zoning Committee.
- Presented a petition to the Board of Commissioners with over 300 signatures that are opposed to the cluster homes in Manns Harbor.
- Stated that a meeting was held with the Manns Harbor Fire Department and they are concerned that the homes are too close together. The Fire Department also showed concern because there is no county water and they will not go down the road to the canal if one of the houses were to catch on fire.
- Stated that the Manns Harbor community worked with the Planning Board for over a year in 2007 to create their zoning ordinance and they want it to go back exactly to the way it was originally.

- Expressed that after attending the prior Board of Commissioners meeting he is concerned that the developer has not figured out a solution to the septic systems if there are power outages.
- Acknowledged that Dominion has improved Manns Harbor power but there are still a decent amount of outages.
- Discussed the trash and bear issues in Manns Harbor, and wants the developer to acknowledge that.
- Asked the Planning Board to present something to the Department of Transportation about the traffic at the intersection and how there is only a flashing light. Stated that this affects him personally due to him losing his sister September 29th, 2010 due to the traffic in the area.

***Craig Parker***

- Began by expressing how thankful the Wanchese Community is for the Planning Board and their efforts.
- Stated that the Manns Harbor Community has supported Wanchese so the Wanchese Community is now supporting them.
- Feels that the municipalities on the beach have created a problem by allowing the homes to become so expensive that no one can afford to buy a home and live there anymore. He feels that this has caused the unincorporated areas of Dare County to step up and solve the issue which is not fair.
- Suggested that some type of moratorium be put into place to prevent the 18 plus bedroom houses from being built or to have some limitations.
- Stated that he presented proof of misrepresentation on Brad Alexander's application to the Board of Commissioners and they still passed it.

***Tola Edmond - 1083 Driftwood Dr. Manteo***

- Began by stating that the Dare County Hanger is being built across the street right in front of her home.
- Stated that her whole house was shaking due to a helicopter flying extremely low over her home and that it is way too close.
- Referenced a map and said that there are other areas where it could be built and not have it in front of residential homes.
- Stated that she discussed this issue with Bobby Outten, County Manager, and he gave her information on the VR Tower. She stated that the VR Tower was struck by lightning several years ago and has not been fixed.
- Stated that she does not understand why we need a ten bedroom emergency hanger and how no one in the neighborhood was informed nor knew about it.
- Expressed that during the summer the helicopter is taking off and landing non-stop.

- She asked who approved the EMS Hanger project. Chairman Finelli responded by stating that the Planning Board did not review or approve the project. Noah Gillam, Planning Director, responded that the FAA and the Planning Staff approved the EMS Hanger project and it was approved due to it being located in the I-1 Zoning District in which airports are a permitted use in that district.

***Angel Khory***

- She applauded the Wanchese and Manns Harbor Communities who came together years ago to create their zoning that reflects their values.
- She stated that she hopes the Planning Board will give the people that reside in the north end of Manteo the same opportunity to come together and have planning meetings and workshops.
- Discussed how there are multiple areas within the north end of Manteo that allow multi-family housing.
- Expressed that in 2011 she came before the Planning Board and asked for the north end of Manteo to be treated like Wanchese in the circumstance when public water got extended to Wanchese it took out the automatic density that was triggered in the zoning ordinance. The Planning Board nor Board of Commissioners approved it.
- She announced that she respects all of the communities on this island.
- Referenced the previous Board of Commissioners meeting and how two Commissioners expressed that they never imagined a development as large as the Wanchese Cluster Homes to be possible. She explained that if the Commissioners do not know then the citizens definitely do not know.

***Mitchell Bateman - Wanchese***

- Expressed that it was an honor to address the Planning Board and Planning Staff Members. He thanked them for the expedited process in attempting to change the cluster home language in the unincorporated areas of Dare County.

***Robin Mann***

- Reminded the Planning Board the last time she was present at a meeting was in 2007 when they were working on the zoning for Manns Harbor.
- Stated that the Manns Harbor Zoning became a conversation to advocate against a developer that was wishing to build condos on the soundfront. They felt that as a community they needed protection.
- Explained how the Community went to the Commissioners and they informed them to work with Donna Creef. Stated that the entire community got together once a week at the community center and figured out what they wanted.

- Stated that the Manns Harbor community wants the cluster home ordinance removed from MH-A and MH-B zoning district in its entirety.
- Asked for the community to be notified about any changes in Manns Harbor in the future.

***Cynthia Mann Holda - Manns Harbor***

- Expressed how thankful she was for moving the Public Hearing to May 17th and expediting the process.
- Stated that she grew up in Nags Head and that she moved away for quite a while, but when she returned Nags Head, Kill Devil Hills, and Kitty Hawk were not recognizable.
- Explained that in the olden days the local people lived in the villages like Manns Harbor, Manteo, Wanchese, Buxton, Hatteras, etc, they did not live on the beach.
- When it came time for the villages to get a zoning ordinance the community stepped up and actively created a zoning ordinance that fit their needs and lifestyles.
- Stated that they had no idea about the Cluster Home Ordinance and the notification process was antiquated. She stated that it was disguised as workforce and essential housing.
- Discussed the proposed septic tank and if it runs on energy there will be consequences. She asked if there were going to be back up generators.
- Discussed stormwater drainage and how it is becoming an ever increasing issue in eastern North Carolina. Stated that the polluted runoff from all kinds of human impact will ruin our marine estuaries, drinking water, and will devastate commercial fishing.
- Asked if Dare County has an Engineer on staff to study some of these issues.
- She stated that no one wants to talk about the sea level rising in Dare County and how it is happening and referred to Hatteras Island and individuals that reside on the waterfront.
- Discussed the trash disposal issues and how bear proof trash cans have been installed in Manns Harbor.
- Expressed that she is thankful for the May 17th Meeting and hopes the Board of Commissioners are fair and that they listen to the native tax paying citizens of Dare County.
- Asked the Planning Board to make a recommendation to the Board of Commissioners to rescind the cluster home ordinance completely from the MHA and MHB Zoning Districts.

**Lorraine Tillett**

- Praised the Planning Board for their sympathy, understanding and compassion.
- Made a suggestion that everytime a new individual gets elected to be a Commissioner they should attend some type of schooling or meetings to learn about the Communities.
- Stated that some of the Commissioners did not know about the zoning of Wanchese nor how it came about.
- Announced that Elmer Midgett was the longest serving Chairman of the Planning Board and had compassion and ensured that the community was made aware of what all was taking place.
- Feels that there should be more notices other than an advertisement in the paper and that the Planning Board and Board of Commissioners should go back to caring about the people in the communities.

*Public Comment Closed at 6:36 P.M.*

**OLD BUSINESS**

***Continued discussion on revisions to the Cluster Home Ordinance Section 22-31.1***

Noah Gillam, Planning Director addressed the Planning Board.

He stated that last month the Dare County Planning Board reviewed a list of possible revisions to the Cluster Home Ordinance at the request of the Board of Commissioners. The Planning Board determined that the current Cluster Home Ordinance allowed for a level of density and scale in traditionally single family districts that was not consistent with the intent of these districts. The Planning Board made a recommendation to the Board of Commissioners to remove cluster homes from single family districts which will be reviewed on May 17th.

Mr. Gillam stated that the continued discussion and other possible revisions that are discussed at this meeting would pertain to the 12 remaining districts that the Cluster Home Ordinance still remains in. He then stated some possible revisions that the Planning Board could continue to explore or take no action since the remaining 12 districts currently allow for higher density.

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. No changes

Chairman Finelli stated that he wanted to discuss the current ordinance in the multi-family areas and referenced Mr. Gillams list of revisions.

Terry Gore began the discussion and expressed that he would like to focus on the scalability of cluster home projects. He feels that the Cluster Home Ordinance makes more sense with smaller pieces of land, versus a piece of property that is 10 acres. He gave an example that maybe on the first acre of land there could be five or six cluster homes. If you had two acres, possibly having four per acre, and once it hit three acres there would have to be additional green space plus in addition to more scalability restrictions. Mr. Gore then expressed that anytime the Board tries to make suggestions there is always someone that will try to find a loophole.

Buddy Shelton wanted to ensure that the MHB zoning district and East Lake zoning districts were included in the previous recommendation that was made to the Board of Commissioners. Mr. Gillam responded that they were.

Terry Gore inquired about the North End of Roanoke Island, Mr. Gillam stated that the following districts would remain in the Cluster Home Ordinance: R-2, R-3, C-3, RS-8 and I-1

Chairman Finelli explained that the purpose of the Cluster Home Ordinance was to provide workforce housing. He also expressed that due to the ordinance that mandates a 30% lot coverage limitation, he is okay for the current cluster home ordinance to remain in the multi-family districts.

Chairman Finelli discussed Terry Gore's inputs on scalability. Terry Gore responded by expressing the idea of having six cluster homes on one acre and once it surpasses one acre you are only allowed to five per acre, once it surpasses two acres you can only have four per acre and once it surpasses three acres it should be divided into a subdivision. He also feels that there is a desperate need for housing in Dare County and that we need to find a way to grow in a manner that is congruent with the identity of the community.

Mr. Gillam made the statement that the zoning ordinance in these districts already allow for apartment complexes and townhomes that do not have any scalability.

Chairman Finelli discussed the RS-10 District in the Town of Southern Shores that allows for 10 units per acre and how it is very successful.

Mr. Gillam stated that he will draft up language on scalability to discuss at the next

Planning Board Meeting on June 6th, 2023.

## **NEW BUSINESS**

***Special Use Permit Application No. 4-2023 for a Cluster Home Group  
Development at 0 Shipyard Road, Manns Harbor, NC (Parcel No.023939003)  
Applicant: Anchor Commercial, LLC***

*Mike Robinson (Engineer), Beverly Heath (Developer), were present at the meeting.*

Noah Gillam, Planning Director, addressed the Planning Board, his comments are shown below:

A special use permit application and a site plan for a cluster home group development has been submitted by Mike Nice of Anchor Commercial LLC. The property is located on Shipyard Rd in Manns Harbor and is currently identified as parcels 023939003 (parcel 1) and 023939002 (parcel 2) in the Dare County Tax Records. The property is zoned MH-8 and cluster homes are permitted as a special use. The site plan references two other adjacent parcels that are owned by Anchor Commercial LLC but are not being used for the purpose of this development. Parcel 023939003 and 023939002 will need to be combined before issuance of building permits.

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 a residential dwelling that is occupied and used for residency and housekeeping purposes for a period of 31 days or more.

The proposed parcel area for the cluster home group development is 3.14 acres (137,152 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 sq.ft. of heated/conditioned space. The applicant is proposing to construct 12 individual dwelling units on the 3.14 acres. The dwellings are proposed as 3-bedroom, 2 story frame on pilings with ground floor storage enclosures. The proposed site plans show the dwellings being separated by 30 foot and 44 foot, exceeding the ordinance 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 single centralized 20 foot paved road with a 30 foot right-of-way as depicted on the site plan to provide access to the dwellings, and development amenities. There is an existing easement that runs across parcel one that accesses an adjacent parcel, it is staff's recommendation that during the combination of parcel 1 and parcel 2 the easement is relocated to the proposed paved roadway.

The 3.14 parcel area is currently vacant and cleared. The proposed improvements as shown on the site plan show a lot coverage area of 27.4% (37,596 sq.ft.) of the allotted 30% (41,145 sq.ft.) meeting the requirements of the ordinance for lot coverage limitations.

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. The applicant 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 two onsite TS-II engineered systems. 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 pilings with parking for two vehicles on concrete underneath the dwelling and two spaces provided in the concrete drive in front of each dwelling. The total number of spaces required for the development is 36 spaces, and the site plan shows a total of 48 spaces. An NCDOT driveway permit 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.



The applicant intends to install amenities for the residents of the development including a boat ramp, docking facility, boat/trailer storage area, and an open area reserved as a playground. Parcel two abuts a canal that connects to the Pamlico Sound, where the applicant proposes to install the boat ramp and docking facility as depicted on the site plan. The installation of the boat ramp and dock will require the need for a CAMA General Permit issued by NCDCM. The boat ramp and docking facility will be limited to use by the residents and guests of the cluster home development. The boat and trailer storage area shall be limited to the residents and guests of the cluster home. No recreational vehicle, boat, or travel trailer stored in this area shall be used for overnight accommodations, or housekeeping purposes. Conditions have been added to the draft SUP that addresses these amenities.

The Dare County Fire Marshal has reviewed the site plan and has provided comments. There shall be no parking allowed on the road within the development, and signage and surface markings shall be as specified by the Fire Marshal's Office. The road shall be paved to have an all-weather surface capable of carrying the imposed weight of fire apparatus of at 75,000 pounds. The boat/trailer parking area provides sufficient maneuvering area for the required turn around for a 40 foot fire truck, but needs to be indicated on the site plan and the developer /Homeowners Association must abide by this. Manns Harbor does not have county water supply, but the canal at the rear of the property provides a water source. The applicant will need to install either a pad parallel to the canal capable of supporting 75,000 pounds or the installation of a dry hydrant assembly designed to meet NFPA 1142 Standard on Water Supplies for Suburban and Rural Fire Fighting. The final location shall be coordinated with the Fire Chief and Fire Marshal for approval, and be installed prior to issuance of building permits. The Fire Marshal's memo is attached and conditions have been added to the draft SUP.

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 copy of the site plan and draft SUP was provided to the Planning Board for review. Mr. Gillam stated that conditions can be added as part of the discussion before this item is forwarded to the Board of Commissioners.

**DISCUSSION:**

Mike Robinson, Engineer, addressed the questions about the wastewater systems and stand-by generators. He referenced the plan and stated that in between each of the houses there is going to be a septic tank and a 1,500 gallon pump tank. He stated that the pump tank is normally almost always close to dry and the level in the pump tank is just enough to cover the pump. After the sewage flows into the septic tank it then goes into the pump tank and then it is pumped to the wastewater treatment facility. He expressed that there is more than 1,000 gallons of storage in the pump tanks and there is additional 5,000-6,000 gallons of storage in the multiple tanks in the treatment system, which is usually dry as well. He stated that all of these tanks are all connected for overflow purposes and he has used these systems multiple times and has never had nor seen an overflow issue.

He explained that the systems that are being used are called TS-II Wastewater Systems and they have a requirement to have a full time operator on call. The operators have to respond within 24 hours, and they have to be approved by E-Z Treat. He explained that the systems also have ultra-violet disinfection at the end of the process. He expressed that they are very reliable and do not have much, if any, odor.

Mr. Robinson stated that Josh Coltrain has been to the proposed cluster home location and the soils have been evaluated.

David Hines inquired about the wastewater system and asked if the Dare County Health Department did not approve the system could the state approve it. Mr. Robinson answered by stating that if you go over 3,000 gallons with this type of system it has to be approved by the state regardless.

Terry Gore asked about the end product of this system and if it comes out as gray water. Mr. Robinson replied by saying no, and that gray water would be what comes out of a septic tank once the solids have settled.

Mr. Robinson stated that there are alarms and control panels with timers on these systems. He explained that when there is no power there is no treatment going on. Terry Gore asked if the tanks could be pumped by a company, Mr. Robinson stated that they could if it was necessary.

Terry Gore inquired about the easement, which is currently overtop of the swales. Mr. Robinson expressed that it will take a legal agreement to eliminate that easement and they have contacted an attorney. He explained that from his understanding the

developer can move the easement as long as they grant the property owner adequate access.

Terry Gore then inquired about the turn around area. Mr. Robinson stated that the turn around area will be partially in the boat storage area. He explained that it is a hammerhead turn around area and it has enough room for a fire truck to pull in, back up, and go out. Mr. Robinson has met with Steve Kovacs multiple times and they are discussing if there should be a parallel pad or a dry hydrant, although the parallel pad is preferred there might be permitting issues with CAMA.

Terry Gore asked what the trash disposal plan was. Mr. Robinson stated that the plan is to have individual trash bins, but they will now look into the bear proof trash bins.

Chairman Finelli inquired about the 20 foot easement and how it was located in the swale. Mr. Robinson explained that the access will be through the roadway and the easement will be removed. Mr. Gillam stated that in the recombination of the parcels the developer has a chance to record a new access easement to grant access to the rear property owner.

Chairman Finelli stated that if the Planning Board finds this Special Use Permit to be reasonable and appropriate an additional condition needs to be added in regards to the easement.

The Planning Board reviewed the proposed Special Use Permit 4-2023 for Anchor Commercial LLC and deemed the conditions and site plan to be reason and appropriate subject to the following additional condition:

- The plat shall also include a relocation of the 20 ft. vehicular access easement to the adjoining parcel and shall run congruent with the 20 ft asphalt roadway shown on the plat.

This item will be forwarded to the Dare County Board of Commissioners for their review.

David Hines pointed out that this proposed Cluster Home Group Development is the way Cluster Home Projects are supposed to look like.

## **OTHER BUSINESS**

Terry Gore asked to have a conversation about having better advertisements and ways that it can be improved to ensure the public is more aware of changes in zoning within their community. Chairman Finelli expressed that the advertisement topic should be discussed at a staff level.

**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 Hines.

Vote: Ayes – Unanimous

The meeting adjourned at 7:19 p.m.

Respectfully Submitted,



Planning Board Clerk

APPROVED: June 6, 2023



John Finelli  
Chairman, Dare County Planning Board