



Dare County Planning Board Meeting

**Dare County Board of Commissioners Meeting Room
954 Marshall C. Collins Drive
Manteo, NC 27954**

January 2, 2024

- I. Call to order 6:00PM
- II. Roll call
John Finelli, Chairman
Beth Midgett Buddy Shelton
David Overton David Hines
Terry Gore II John DeBoy
- III. Approval of minutes for the December 5, 2024 meeting
- IV. Public Comment
- V. Old Business
- VI. New Business

**Zoning Map Amendment Application to rezone 40177 Westerly Lane and
40974 NC 12 Hwy., Avon from R-2A to C-2.
Applicant: Dale Petty / John Hooper**
- VII. Other Business
- VIII. Adjournment

DRAFT

MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Tuesday, December 5, 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 6:00 pm

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

MEMBERS ABSENT David Hines

APPROVAL OF MINUTES

Chairman Finelli motioned to amend the minutes of the November 7, 2023 meeting of the Dare County Planning Board. The changes are outlined below:

Under New Business – William Barry Trust

The sentence that begins with “Mr. Gilliam detailed that ...” re-written as:

Mr. Gilliam detailed that the Applicant is proposing to subdivide his property by cutting out a 28,915 square foot parcel. Since the size of the tract exceeds the threshold for administrative approval, the proposed subdivision is being reviewed this evening by the Planning Board.

Under New Business – Zoning Map amendment

Add “LLc” after the first instance of “Pbp&s”

Terry Gore made a motion to recommend approval of the minutes as amended. Beth Midgett seconded this motion.

Vote: Ayes – Unanimous

PUBLIC COMMENT

At 6:03 p.m. Chairman Finelli outlined the procedure for making Public Comments. No one responded to the invitation to address the Planning Board.

Public comment section closed at 6:04p.m.

OLD BUSINESS – None

NEW BUSINESS

Text Amendment to the MH-A for Portable Storage Units as an accessory use to Mini Storage Facility. Submitted by William and Shelly Daugherty

Mr. Gillam began by stating that a text amendment application was submitted by William and Shelly Daugherty to amend the MH-A zoning ordinance. He further explained that the applicants are seeking the addition of portable storage unit services to the currently permitted use of mini-storage facilities. Additionally, the applicants have included amendments to the definition section that include a definition of portable storage container and portable storage unit service, and draft language for a proposed new

section of the Dare County Zoning Ordinance, that regulates the usage of portable storage containers both on and off site of the mini storage facility.

Mr. Gilliam informed the board the MH-A district is defined in the ordinance "to encourage the development of moderate density residential neighborhoods, to serve as a transition zone between low-density areas and more intensely developed areas and provide a setting for a limited number of business uses associated with a coastal village location". The MH-A district currently permits a mix of residential and commercial/light industrial uses such single-family homes, mobile homes, boat building shops, catering businesses, house and boat moving businesses, and mini storage facilities. A copy of the MH-A regulations was provided for the Board's review. Mr. Gilliam stated that the proposed does not seem incompatible with the intent of the ordinance, since the proposed use would be an expansion of a uses already permitted in the district, therefore, staff recommends that they be treated as group development subject to the requirements of Section 22-31 Group Developments.

Mr. Gillam further detailed that if the amendment was approved, language would need to be included that regulated the portable storage containers service both on the mini storage facility site and customers properties. This draft language is proposed as a new section to the ordinance since the containers will not always be located in the MH-A zoning district. The draft language drafted by the applicants establishes a time limit for placement of portable storage containers on properties, the need for anchoring requirements, and the number of units allowed on customer properties. Planning staff has drafted additional language to expand on these conditions to include the requirements of the Dare County Flood Development Ordinance, signage, number of units allowed on service site, and expansion to other districts that allow mini storage facilities and storage warehouses. The applicants draft language and staff draft language was provided for the Board's review and discussion.

Ben Gallop, Esq., was present representing the applicants. He stated Mr. Gillam outlined the intent of the applicant's amendment perfectly; however, they would like some consideration to be given to the provision of not stacking the storage units. Mr. Gallop stated the units are stackable and the company that makes them has engineered plans and specifications on how to stack them. He suggested a stipulation stating the units could only be stacked if engineered plans were provided from the manufacturer and the units must be stacked to a height based on the district height limitation in an effort to solve the concerns. The applicant, William Daugherty spoke up stating the stacking would only be done on the storage unit property and also provided some information on the assembly of the portable storage units, the various sizes available, as well as the needed machinery needed to move them.

A shared concern was recognized regarding the "stack ability" of these units with regard to safety, wind/flood hazards, accessibility and appearance. Mr. Gillam reiterated that this amendment is not site specific and the draft language would apply to Portable Storage Containers and Portable Storage Unit Services in other districts, such as CS, I-1, HML, MC-2, MC-1, C-2, C-3, MH-A and S-1. It was determined that the stacking provision would be addressed in the future, when/if the need arises.

Chairman Finelli suggested additional language to be added to the Text Amendment, as follows:

#6. - Any portable storage container must meet the NC Building Code wind load rating.

Chairman Finelli made a motion to recommend approval to the Dare County Commissioners of the Text Amendment to districts CS, I-1, HML, MC-2, MC-1, C-2, C-3, MH-A and S-1, to include Portable Storage Unit Services to mini storage facilities under the prepared draft language with the additional language *Any portable storage container must meet the NC Building Code wind load rating*, such motion

to include finding of consistency with the 2009 Dare County Land Use Plan. Terry Gore seconded the motion.

Votes: Ayes - Unanimous

Special use Permit Application 8-2023; 24 Camping spaces in conjunction with commercial use at 53013 NC 12 HWY Frisco. Submitted by Todd Gaskill

Mr. Gillam began by stating that Tod and Angela Gaskill have submitted a Special Use Permit application to allow for travel trailer sites on their existing commercial property in Frisco, NC. The property is identified as parcel 015069000 in the Dare County tax records and is located at 53013 NC 12 Hwy. The parcel is zoned S-1, and travel trailers sites developed on commercial property in conjunction with another commercial use are permitted subject to special use permit review.

Mr. Gillam detailed the total parcel area is 4.32 acres and the proposed area for travel trailer sites is 3.55 acres. Section 160.37 Camping Spaces at Commercial Sites establishes that a minimum of 20 spaces shall be provided and that spaces shall be developed according to the provisions of Section 160.28 Configuration of Camping Spaces. Mr. Gillam went on to state the applicant is proposing to install twenty-four spaces, in the free form configuration allowed by section 160.28. He further explained the site plan shows all sites being separated by the required 15-foot and accessed by the required 20-foot internal access roads and advise a detailed site plan is attached with this memo showing the existing and proposed improvements on the property. The applicant is proposing to install two wastewater systems to service the travel trailer sites and proposed bathhouse. Additionally, each travel trailer site will have individual sewer hook-ups; one system will be designed to services travel trailers that are left in the park on a year-round basis, while the other will be designed for sites that are for transient visitors. Improvement permits for the designed septic systems have already been issued by the Dare County Health Department. The proposed bathhouse shall consist of a minimum of two toilets, two showers, and two sinks for each sex and this shall be noted on the site plan. Mr. Gillam noted that conditions have been added to the draft SUP to address the bathhouse facilities. He further stated a vegetative buffer of indigenous trees and bushes is being proposed on the north, west and east park boundaries. Additionally, the southern boundary of the parcel is a vegetated wetland and will not require any additional buffer requirements. A landscaping plan is included with the site plan, and conditions have been added to the draft SUP addressing the buffer and its maintenance. The area of land disturbance for the installation of improvements is greater than one acre and will require a North Carolina Soil Erosion and Sedimentation Plan, and State Stormwater management permit from the North Carolina Department of Environmental Quality. No land disturbing activity shall occur on the property until copies of the permits are provided to the Dare County Planning Department. Mr. Gillam further detailed that the site plan identifies a pocket of wetlands on the western property line, if it is the applicant's intentions to fill these wetlands copies of the appropriate Army Corps of Engineers permits shall also be supplied to the Planning Department before ground disturbing activities.

Additionally, the Dare County Fire Marshal reviewed the site plan, and has indicated that a fire hydrant will need to be installed within 400-feet of the furthest campsite along the travel path of the fire apparatus, and that all roads shall be installed and maintained with at least 20-feet of width, and have all weather surface capable of carrying the imposed weight of at least 75,000 pounds. Conditions have been added to the draft SUP to reflect the fire marshal comments. A copy of the site plan has been provided to the Dare County Public Works department as required by the Travel Trailer Park Ordinance to ensure the proper placement of the solid waste receptacles.

Terry Gore made a motion to forward this SUP to the commissioners with the conditions in the staff draft SUP, along with the recommendation of two additional dumpsters as stated, to be reasonable and appropriate. Seconded by Buddy Shelton.

Votes: Ayes - Unanimous

Special Use Permit Application 7-2023; Yak Kuchta 2 Unit Cluster Home Development at 53770 NC 12 HWY Frisco. Submitted by James Yax & John Kuchta

Morgan Potts, Planner, began by stating that this is a three-(3) unit group development and a Special Use Permit application has been submitted by James Yax & John Kuchta, represented by House Engineering, P.C., for a proposed group housing project. Ms. Potts advised that the property is zoned S-1 and group developments are allowed in this district subject to review as a special use, as referenced in 22-31 of the Dare County Zoning Ordinance. She also specified the parcel is 25,000 +/-square feet and meets the minimum lot size required for a group development.

Ms. Potts further detailed that there are currently two existing structures on the parcel; one principle dwelling and an accessory structure, which will be demolished. The applicant is proposing to construct two units. She explained the proposed structures will be 3 story, 2-bedroom units, wood framed on pilings and the proposed site plan shows the dwellings being separated by 20 feet meeting the requirements of the group development ordinance.

Ms. Potts went on to state that each structure in the group development will be accessed directly off of NC Highway 12 via an existing driveway and that the site plan has been reviewed by the fire marshal and his comments are provided in the meeting packet. It was noted that the project engineer has labeled both new units as "Unit 2"; this will be corrected prior to the hearing with the Board of Commissioners. Conditions have been added to the draft SUP to address these topics.

Rick House of House Engineering was present and reiterated the changes and corrections made on the revised site plan that were previously made known.

Terry Gore made a motion to forward this SUP to the Dare County Commissioners with the stated conditions to be reasonable and appropriate. Seconded by Buddy Shelton.

Votes: Ayes – Unanimous

- **Approval of the 2024 Planning Board Meeting and Submission Date Calendar**

Mr. Gillam suggested changing the November meeting date from the 5th to the 6th to account for Election Day.

Beth Midgett made a motion to change the November meeting date from Tuesday the 5th to Wednesday the 6th. Seconded by Terry Gore

Votes: Ayes - Unanimous

OTHER BUSINESS

Chairman Finelli announced he will not seek reappointment to the Planning Board when his term expires in February. He stated that he has thoroughly enjoyed working with all the Planning Board members he has served with over the years.

ADJOURNMENT

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

Votes: Ayes - Unanimous

The meeting adjourned at 7:33p.m.

Respectfully Submitted,

Gerri Ellington
Planning Board Clerk

APPROVED: January 2, 2024

John Finelli
Chairman, Dare County Planning Board

DRAFT

**COUNTY OF DARE
ZONING AMENDMENT APPLICATION
OR AMENDMENT TO DEVELOPMENT REGULATION**

Any zoning map, zoning text amendment, or amendment to other development regulation is subject to legislative review and approval by the Dare County Board of Commissioners according to the procedures of Section 22-81 of the Dare County Zoning Ordinance. Applications for amendments shall be made in writing to the Dare County Planning Director and shall be signed by all property owners or their duly authorized agents.

Property Owner (s) JOHN R. HOOPER / DALE PETTY

Address: _____

Telephone: (252) 475-4342 Email: www.lighthouseview.com

Property Description:

Lot	Phase/Section	Block	Subdivision
Parcel: <u>014722000</u>			PIN: <u>054905196680</u>
<u>014712000</u>			<u>054905199646</u>

Text Amendment Map Amendment

Present Zoning Classification: Section 22-16 NH

Requested Zoning Classification : Section 22-16 NH

Explanation of Request: _____
ZONING AMENDMENT FROM R-2A TO C-2

Amendment applications shall not be processed by the Planning Director until such time that all review fees have been paid and all necessary documents have been submitted. Once the application is determined to be complete, the Planning Director shall schedule review of the application as established in the Zoning Ordinance Sections 22-82 to 22-86. Amendments are legislative decisions and involve review by the Planning Board and Board of Commissioners. The notice procedures of Section 22-72 of the Zoning Ordinance shall be implemented by the Planning Director. Citizen comments shall be processed according to Section 22-82 and Section 22-85 of the Zoning Ordinance.

Applicant: Dale Petty Date: 11-14-23

Dale Petty

From: Jonathan Waddill
Sent: Tuesday, November 14, 2023 11:01 AM
To: Dale Petty
Subject: Fwd: Zoning change 40177 Westerly Lane Parcel#014722000

Sent from my iPhone

Begin forwarded message:

From: John Hooper <john@lighthouseview.com>
Date: November 10, 2023 at 7:30:51 AM EST
To: noah.gilliam@darenc.com
Cc: Jonathan Waddill <jw@surforsound.com>
Subject: Zoning change 40177 Westerly Lane Parcel#014722000

CAUTION EXTERNAL EMAIL

Noah,

I want to communicate to you that I am fine with the attempt to change the zoning on the above-mentioned parcel, this is also stated in the addendum to the contract giving them a legal right.

Please let me know if you need additional information.

Thanks,
John Hooper
Lighthouse View Oceanfront Lodging
www.lighthouseview.com
cell 252.475.4342

EXHIBIT "B"
TO
AGREEMENT FOR PURCHASE AND SALE OF LAND
BY AND BETWEEN
TROY D. PETTY AND ANNAH A. PETTY, AS BUYER
AND
JOHN R. HOOPER, AS SELLER
FOR PROPERTY AT 40177 WESTERLY LANE, AVON, NC 27915

24. Notwithstanding anything else as contained within this Agreement, the obligation of the Buyer to purchase the Property is contingent upon Buyer being able to have the Property rezoned from R-2A to C-2. Seller agrees to cooperate in all reasonable ways to have this Property rezoned from R-2A to C-2. Seller expressly authorizes Buyer to seek, apply for, and to assist in all commercially reasonable ways to have the Property rezoned from R-2A to C-2.

25. Notwithstanding the provisions of Section 1(b), Buyer shall pay the following Due Diligence Fees:

- Seller Received JRH 10/6/23
- (a) \$3,000.00 Due Diligence Fee to be paid to Seller on or before the Contract Date;
 - (b) \$3,000.00 Due Diligence Fee to be paid to Seller on or before February 1, 2024;
 - (c) \$3,000.00 Due Diligence Fee to be paid to Seller on or before May 1, 2024;
 - (d) \$3,000.00 Due Diligence Fee to be paid to Seller on or before August 1, 2024;
 - (e) \$3,000.00 Due Diligence Fee to be paid to Seller on or before October 1, 2024.

Failure of Buyer to make any of the Due Diligence Fee payments, shall be deemed to be a material breach of this Agreement, which shall authorize Seller to terminate the Agreement and retain all previously paid Due Diligence Fees.

Notwithstanding the fact that the obligation of Buyer to purchase the aforesaid Property, is contingent upon the Property being rezoned from R-2A to C-2, all Due Diligence Fees upon payment, are nonrefundable, whether Buyer purchases the Property or not.

All Due Diligence Fees shall be applied toward the cash due at Closing, pursuant to Section 1(b)(iii).

In witness whereof, the parties have executed this addendum to Offer to Purchase and Contract.

9/28/2023
Date

DocuSigned by:
John R. Hooper
John R. Hooper, Seller

10/4/2023
Date

DocuSigned by:
Troy D. Petty
Troy D. Petty, Buyer

10/4/2023
Date

DocuSigned by:
Annah A. Petty
Annah A. Petty, Buyer

December 14, 2023

MEMORANDUM

TO: DARE COUNTY PLANNING BOARD
FROM: Noah H Gillam, Planning Director
RE: Petty/Hooper Avon Map Amendment Application R2-A to C-2

A zoning map amendment application has been submitted by Dale Petty of Surf and Sound Realty seeking a rezoning of a portion of his property and an adjoining property owned by John Robert Hooper which Mr. Petty has under contract to purchase. The applicant currently owns 40974 NC 12 HWY, this property has dual zoning designations with the front third of the property adjacent to NC 12 being zoned C-2 commercial and the rear two-thirds being zoned R2-A. The parcel under contract to purchase is directly adjacent to the west and is zoned R2-A. Mr. Petty is seeking to have the properties rezoned C-2 Commercial. The rezoning to the C-2 designation would afford Mr. Petty the option to expand his real estate office and build a storage facility to service his office and rental properties.

The properties surrounding the properties seeking the rezoning are R2-A, C-2 Commercial and C-3 Commercial. The properties to the north are zoned R2-A and are developed with residential dwellings. The properties to the east along NC 12 Hwy are zoned C-3 Commercial and include a restaurant, fishing pier, and beach club. The properties to the west are separated by a canal and are zoned R2-A and developed with residential. The properties to south are zoned C-2 commercial and R2-A and have a mix of residential dwellings, and commercial uses including retail, wastewater treatment plant and commercial storage warehouses. A map is included with this memo that depicts the current zoning map, current uses, and properties seeking rezoning.

In review of the Avon zoning map there are corridors of C-2 Commercial that run from NC 12 Hwy westward to the canal. These corridors of commercial all separate and intersect primarily areas zoned R2-A. In review of the zoning map and historic uses in the area the reclassification to C-2 commercial for the applicant's parcels would not disrupt the flow of the surrounding neighborhood and would result in a contiguous area of properties zoned commercial. It is staff's recommendation that the reclassification to C-2 is appropriate. It should also be noted the R2-A does afford some commercial uses that are commercial in nature including fish houses, real estate offices, and campgrounds.

If the applicant's text amendment application is approved, his proposed use of the property would be subject to special use permit review. This would afford the Board the opportunity to address site specifics and address concerns if any from the neighborhood.

A finding of consistency with the Dare County Land Use Plan is included with this memo for the boards review. A finding of consistency should be included with any recommendation made.

This item will forwarded to the Dare County Board of Commissioners, and a Legislative Hearing will be scheduled and conducted before any action by the Board of Commissioners is considered.



Tax District: Avon
 Subdivision: Subdivision - None
 Lot BLK-Sec: Lot Blk: Sec:
 Property Use: Professional
 Building Type: Office Bldg L/r 1-4s
 Year Built: 2002

Owners: Surf Or Sound Avon Lic -
 Primary Owner
 C/o Annah Petty -Primary Owner
 Building Value: \$829,600
 Land Value: \$326,700
 Misc Value: \$14,600
 Total Value: \$1,170,900

40974 Nc 12 HWY
 Avon NC, 27915
 Parcel: 014712000
 Pin: 054905199646

This map is prepared from data used for the inventory of the real property for tax purposes. Primary information sources such as recorded deeds, plats, wills, and other primary public records should be consulted for verification of the information contained in this map.



ZONING AMENDMENT CONSISTENCY DETERMINATION

On January 2, 2024, the Dare County Planning Board considered zoning map amendment application to the Avon zoning map submitted by Dale Petty of Surf and Sound Realty. This zoning map amendment application seeks to rezone his parcel and an adjacent parcel from R2-A Alternative Medium Density Residential to C-2 Commercial.

The 2009 Dare County Land Use Plan is the comprehensive plan for unincorporated Dare County adopted by the Dare County Board of Commissioners on December 6, 2010.

A review of the Dare County Land Use Plan found the following policies to be applicable to the zoning map amendment:

Land Use Compatibility Management Topic

Policy LUC #5

Dare County encourages the continued existence and development of locally-owned businesses in unincorporated Dare County.

Policy LUC #6

Commercial development should be designed to meet the needs of Dare County's unincorporated villages and not to serve as regional commercial centers. The gross floor area limitations of the Dare County Zoning Ordinance and other applicable land use codes shall be used as a tool to manage the footprint of commercial structures. The goal is to manage the size of the commercial structures, which serves as a disincentive for regional commercial centers for location in villages.

Based upon a review of these policies, the Dare County Planning Board finds the zoning map amendment to be consistent with the 2009 Dare County Land Use Plan since the amendment will allow for uses that are already similar to the surrounding uses in the neighborhood.

The Planning Board further acknowledges the intent of the C-2 commercial district is to provide for the proper grouping and development of commercial facilities to serve permanent residents and the general public.

The Dare County Planning Board hereby recommends that the zoning map amendment to the Avon zoning map submitted by Dale Petty be adopted.