

## MINUTES OF THE DARE COUNTY PLANNING BOARD MEETING

The Dare County Planning Board held their regularly scheduled meeting on Monday, April 9, 2018. This meeting was held in Room 168 of the Dare County Administrative Building, 954 Marshall C. Collins Drive, Manteo, NC.

**CALL TO ORDER**                    6:00 pm

**MEMBERS PRESENT**     John Finelli, Chairman  
                                 Michael Barr                                    Beth Midgett  
                                 Terry Gore II                                   Charles Read, Jr.

**MEMBERS ABSENT**             David Overton

### APPROVAL OF MINUTES

There being no corrections or additions to the minutes of the March 12, 2018 meeting of the Dare County Planning Board, Terry Gore made a motion to approve the minutes as submitted. Michael Barr seconded this motion.

Vote: Ayes – Unanimous

### PUBLIC COMMENT

-None-

### PUBLIC HEARING

#### **Zoning Map Amendment Request, Lots 2, 3, and 4 George Mann Tract 2, Highway 345, Wanchese, J.D. Johnson Realty and Construction**

Donna Creef said Jonathan Johnson is requesting a zoning change for three lots from Baumtown Traditional (BT) zoning to Highway 345 (Hwy 345). The Planning Board discussed this in March and scheduled a public hearing tonight. Mr. Johnson submitted additional information, pictures and a map, which have been provided to the board members. The adjacent property owner, Kathryn McMahan, is opposed to this. Ms. McMahan leased her lot that is adjacent to Mr. Johnson's lot to a gentleman who has a farm ID from the State of North Carolina. This exempts Ms. McMahan's lot 1 from county zoning regulations and construction has started on lot 1. After the public hearing, the Planning Board may make a recommendation of approval or disapproval to the Board of Commissioners. This recommendation will need to include a statement of consistency or inconsistency with the Land Use Plan.

Emiline Whidbee, part-owner of the 56 acre lot adjacent to these properties, opposes this zoning map amendment. Her family has owned the property over 30 years. She does not want the George Mann Tract 2 lots open to large scale businesses of unknown

building size along with associated traffic, noise, and potential environmental damage to surrounding wetlands. She does not want the zoning changed.

Kathryn McMahon, adjacent property owner and Emiline Whidbee's mother, submitted an email in opposition to this zoning map amendment request and was present at the public hearing. She said her reasons are the same as previously stated by Emiline Whidbee.

The Public Hearing closed at 6:05 p.m.

Jonathan Johnson addressed the board. Chairman Finelli asked where his residence is and Mr. Johnson replied the north end of Roanoke Island.

Mr. Johnson referenced photos he provided to the board and made the following statements:

- There is much traffic on Highway 345.
- The person leasing lot 1 is constructing a 1500-1600 sf Farmer's Market building with a parking lot 10' from Mr. Johnson's property line. He supports locating the market there but wants to note it is an adjacent commercial business, has no residence, has a farm ID so is exempt from Baumtown Traditional zoning, and is owned by Ms. McMahon who is opposing changing the zoning map for Mr. Johnson's lots.
- The Farmer's Market will benefit from additional traffic in the area.
- The 56 acres adjacent, also owned by Ms. McMahon, have less than one acre of uplands. The rest is wetlands and not able to be developed. This is why Mr. Johnson sold lot 1 to Kathryn McMahon to allow her access to her 56 acre property.
- The lots have been listed for sale since last fall with the requirement that a residence be located on the property. No one wants a residence at this location.
- Commercial uses without the requirement of an on-site residence have expressed interest in locating on the properties.
- The deepest lot is only 120' from Highway 345 to the back property line.
- There are no single family residences on Highway 345 in this area for some distance. It is highly visible to traffic.
- The nearest residence is 1200' away, across Highway 345 to the southeast and located back off the highway. Everything to the north is wetlands and not able to be developed.
- The next item on tonight's agenda is about locating a radio tower directly east of these lots.

- Commercial buildings have strict guidelines that must be followed to protect the environment.
- These properties are commercial, road-frontage properties. Not residential. The zoning map should be amended.

Charles Read asked what type of commercial businesses expressed interest in locating on the lots. Mr. Johnson replied a commercial fishing gear business and a welding shop are interested in this. A boat shop also was interested. A fence or vegetative buffer will be required. Mr. Finelli pointed out if the zoning is changed, any business allowed in Highway 345 zoning could potentially be located on the lots.

Mr. Finelli asked how large the lots are. Mr. Johnson replied lots 2 and 3 are approximately 20,000 sf each and lot 4 is about 14,000 sf of uplands with the rest either 404 or coastal wetlands.

The board discussed the best use of the property, proximity to nearest residences, opposition of adjacent owners, and consistency with surrounding uses.

After discussion, Chairman Finelli made a motion to recommend approval of the zoning map amendment request with a finding of consistency with Land Use Plan Policies 5 and 6 which encourage the continued existence and development of locally-owned businesses in unincorporated Dare County.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

This item will be considered by the Board of Commissioners at their meeting on May 7, 2018.

## **OLD BUSINESS**

-None-

## **NEW BUSINESS**

***Request to Amend Highway 345 Zoning so a Telecommunications Tower Will No Longer Require an On-Site Studio, East Carolina Radio, Inc.***

Rick Loesch, President of East Carolina Radio, was present at the meeting and provided Federal Communications Commission regulations to the board.

Donna Creef said Highway 345 (Hwy 345) zoning was added to the zoning map after other Wanchese zoning was adopted. It was delayed to work out the details for some of the permitted uses. Recently, Mr. Loesch submitted a conditional use permit application for a tower and equipment shed on his property. The Hwy 345 district permits telecommunications towers “only associated with a principal or conditional use in this district.” The equipment shed does not establish a principle use with the tower. Technology has changed. Studios are no longer required to be on site with a tower. Mr. Loesch would like to build a 75’ tower in compliance with all FCC regulations but requires a text amendment to Hwy 345 zoning to allow this.

The Planning Board has the option to make a recommendation to the Board of Commissioners or to schedule a public hearing. Adjoining property owners have been notified and the property has been posted. No comments have been received by staff. Commercial development policies from the 2009 Land Use Plan have been provided to the board. Those policies address commercial development in general and are not specific to telecommunication towers though this also means it is not prohibitive in the policies.

Mr. Loesch said he wants to install a 75’ fiberglass tower that uses new technology. Years ago, the FCC required a station to be within 20 miles of the tower. As of last January, the FCC will allow a studio to be located anywhere as long as the public has access to the studio’s public files. The tower only requires a small equipment building. The fall radius of a 75’ tower will not reach the property line. We want to be able to serve more of the public by installing the tower.

Chairman Finelli said section 22-29.2 of the zoning ordinance references heights, fall zones, and a number of issues regarding telecommunications towers. The board is not considering to amend any of that. The Hwy 345 zoning requirement that a studio be located on a property in conjunction with a telecommunications tower is the only amendment under consideration.

Michael Barr pointed out the proposed tower is 80’ tall when including the base. He questioned whether tower height has bearing on the proposed amendment. Donna Creef said section 22-29.2 states the review procedures required for telecommunications towers. The height of the tower determines the review procedure to be followed. This is not going to affect the review procedures for telecommunications towers.

Charles Read asked if the equipment building will be elevated. Mr. Loesch said it will be elevated on 8'x8' pilings.

Charles Read made a motion to recommend approval of the text amendment to Highway 345 zoning and further finds the proposed amendment to be consistent with Dare County Land Use Plan Policies 5 and 6.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

This item will be considered by the Board of Commissioners at their meeting on May 7, 2018.

***Request to Amend RS-8 Zoning to Add Non-conforming Language Specific to Multi-Family Dwelling Density Requirements, Roanoke Shores Homeowners Association***

Richard Hess, HOA President, and Staton Martin, HOA Manager, were present at the meeting.

Donna said Roanoke Shores is a multi-family structure located at 117 Old NC 345 on the north end of Roanoke Island. In 1975, the property was zoned as RS-8 and the dwelling density was 8 units per acre. The same density applied when the structures were built in 1985. In 2003, densities for multi-family dwellings changed county wide. There are now 6 units per acre allowed at the property. The dwellings are now condominiums with individual owners. If the structures are damaged to more than 50% of their market value, they would need to comply with 6 units per acre to rebuild. The homeowners association is requesting an amendment to the RS-8 zoning that will allow them to rebuild at 8 units per acre as originally allowed.

Chairman Finelli reviewed the language in the text amendment as drafted by staff and said he does not see the need for a public hearing.

Charles Read made a motion to recommend approval of the text amendment to RS-8 zoning as drafted by staff and further finds this amendment to be consistent with Land Use Plan Policy 4 which identifies multi-family dwellings as appropriate alternatives for year-round housing and workforce housing.

Terry Gore seconded the motion.

Vote: Ayes – Unanimous

This item will be considered by the Board of Commissioners at their meeting on May 7, 2018.

## **OTHER BUSINESS**

### ***Discussion Regarding the Land Use Plan Update***

Donna Creef said the Board of Commissioners approved the Public Participation Plan last month. Workshops have been scheduled to solicit citizen input for the Land Use Plan. The workshops will take place April 23 at the Dare Co. Administration Building in Manteo, April 24 at the Fessenden Center in Buxton, and April 25 at the Baum Center in Kill Devil Hills. It would be great if Planning Board members could attend any of the workshops. Beth Midgett said she will be out of town at that time.

The Planning Board discussed the Citizen Survey for the 2018 Land Use Plan Update. Donna Creef will update the questionnaire accordingly.

## **ADJOURNMENT**

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

Vote: Ayes – Unanimous

The meeting adjourned at 7:10 p.m.

Respectfully Submitted,



Sharon L. Flatt  
Planning Board Clerk

APPROVED: May 14, 2018



John Finelli  
Chairman, Dare County Planning Board