

Perquimans County Planning Board

MINUTES

Thursday, February 11, 2016

The Perquimans County Planning Board held its regular monthly meeting that was rescheduled to Thursday, February 11, 2016 at 6:00 PM in the Commissioners Meeting Room located on the 1st floor of the Perquimans County Courthouse Annex Building.

MEMBERS PRESENT: Paul Kahl, Chair
Brenda Lassiter
Donald Manley
Lewis Smith

MEMBERS ABSENT: A.O. Roberts, Vice Chair

OTHERS PRESENT: Donna Godfrey, County Planner
Rhonda Money, GIS/Planning Assistant
Applicant and other interested parties

Chair Paul Kahl called the meeting to order at 6:03 pm and opened with prayer by Lewis Smith.

Agenda Item II, Consent Agenda/Approval of Minutes of Previous Meetings: Ms. Godfrey asked the Planning Board to amend the Consent Agenda to include just the minutes of the last meeting, January 12, 2016. She stated that the minutes of the March 11, 2014 meeting are ready but she forgot to bring them tonight and she will email them to the Board members for review and approval at next month's meeting. Ms. Lassiter made a motion, seconded by Mr. Smith, to approve the corrected agenda as presented. The motion carried. Ms. Lassiter made a motion, seconded by Mr. Manley, to approve the previous Planning Board Minutes of January 12, 2016 Regular Meeting. The motion carried.

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Agenda Item III-A: Consideration of Rezoning Request No. CUD-16-01, requested by ET Hyman Surveying, PC, to rezone from RA, Rural Agriculture to Residential & Agricultural Conditional Use (RA-15[CD]) District, the 2.26-acre parcel located at 2125 New Hope Road (known as Tax Parcel No. 4-0054-0040 and PIN No. 7898-26-7006), to allow construction of a 4-unit multi-family building and related site improvements. Ms. Godfrey stated that the Planning staff recommends a change in the procedures which have been followed in the past regarding conditional use district applications (she noted that the first part of the Staff Report was copied from an earlier Conditional Use District request, which followed the two-step process in reverse order (with the *Conditional Use Permit* being considered first, followed by the *Rezoning Request*). Instead, she asked the Planning Board to act first on the *Rezoning Request*, followed by the *Conditional Use Permit*. Ms. Godfrey pointed out that the Suggested Motions and Actions at the end of the Staff Report are provided in the correct order, with the Rezoning

preceding the Conditional Use Permit. Chair Kahl asked why both are reviewed at the same time. Ms. Lassiter commented it takes so long to get through Planning Staff and the Planning Board that reviewing both at the same time expedites the case. Eddie Hyman explained that doing both at the same time shows exactly what will be done in the newly rezoned area rather than the Planning Board voting "blind" about the zoning. Further discussion ensued in regard to the complicated nature of a Conditional Use District, the fact that the applicant/property owner literally proposes a self-imposed limitation on the use of the property and the project itself forms the basis for the "customized" zoning district together with the minimum design standards of the underlying zoning district thus, in this case, the "RA-15(CUD)" District. Furthermore, any future change in the CUD-approved use of the property would require reapplication by the developer for review and approval in front of the Planning Board and Board of County Commissioners. Conditions placed on a request for a "standard" zoning district would be considered "contract" zoning which is illegal and unenforceable in North Carolina. In North Carolina, the Conditional Use Permit process is the only legal basis available to impose conditions on a given project, the only legal form of "contract" zoning.

Ms. Godfrey further requested the Planning Board to act and vote on a "Statement of Consistency" prior to the separate action and vote for the Rezoning Request, and then to act and vote on a "Statement of Consistency" for the proposed Conditional Use District prior to acting and voting on the Conditional Use permit. She referenced the CAMA Plan for a number of different policies that they may or may not find applicable, and suggested that this request could in some ways be considered "in-fill development."

Mr. Smith expressed concerns about our Soil and Water District Technician's (Scott Alons) comments on the need to see a drainage plan. Mr. Smith needs to see Scott's recommendation before he can vote on a rezoning because he knows that New Hope has drainage issues from when he was previously on a different committee that looked at drainage.

Mr. Eddie Hyman distributed perspectives of the proposed building and other site improvements (see attached Exhibits B-1 through B-3), and described the project on behalf of his client, Jesse Ricks. He discussed the County's requirement for a public sewage disposal system to serve proposed development in the RA-15 for densities greater than one unit per 43,000 square feet. He explained that Jon Morgan, with Albemarle Regional Health Services (ARHS), had reviewed the site and felt that the soil was acceptable to create four individual drain fields and repair areas rather than a tertiary system. This would be preferred (by Mr. Morgan) in place of the treatment plant approach which would require additional man power and the use of many additional breakable parts. Mr. Hyman stated that drainage plans and other information will be produced after the applicant sees what is said here tonight. Mr. Hyman further described the proposed development and Mr. Ricks' plan to install a seven foot high privacy fence around the property boundaries. The project is designed with two children's play areas and someone will maintain the common open space.

In answer to Mr. Manley's question regarding what size the septic tanks will be, Mr. Hyman said 1,000 gallon tanks with 400 feet of line for each unit. Chair Kahl commented the site was equivalent to putting four houses on half-acre lots.

Ms. Godfrey explained that the State Building Code requires different levels of construction depending upon the ownership of the building. An apartment building owned by one entity which rents out the four different units requires each unit to be separated from any other unit by a one-hour fire wall. Although Mr. Ricks intends to own and lease out the units, he wants to leave open the option to sell the individual units in the future; therefore, individual unit or "airspace" ownership would require the units to be separated by two-hour fire walls. This "condominium" approach would require the creation of a homeowners association with bylaws and restrictive covenants where homeowner fees can be collected to pay for the maintenance and upkeep of the common areas (including the individual septic tank systems, the children's play areas, parking lot, landscape plants, fence, etc.).

Mr. Kahl brought up fire control issues. New Hope has a poor water supply when you get far out in the county. Fire departments are volunteer-based, therefore the response time is increased. He feels that a project like this makes more sense in a town where resources are closer. He also prefers four septic tanks rather than just two as shown in the current sketch and really, he feels that 2.26 acres is too small for four septic systems.

Ms. Lassiter asked to hear comments from the audience. She is not opposed to the idea, but she would like to hear the neighbors' concerns:

- Jonathan Godfrey said his family farms the fields behind Mr. Ricks' property. The farm fields drain to and through the project area. He asked what happens if no one is there to pay homeowner fees for the maintenance? Will Mr. Ricks have it rented before or after it is built?
- Ms. Lassiter asked how much these will rent for if he chooses to rent them. Mr. Ricks said family income will need to be \$45,000 per year. It could be a single salary or total family income.
- Jonathan Godfrey asked if the front land around the driveway counted toward the septic system acreage. Mr. Hyman answered no, the repair area was already accounted for in the drain field designed by Jon Morgan with ARHS.
- Mr. Smith asked Mr. Ricks if he was planning on using subservice drainage.
- Ms. Lassiter asked him to explain where exactly.
- Jean Proctor discussed drainage issues. The subject property drains under the road to a ditch that runs beside her house. Water backs up into her yard and she has to maintain the ditch because NCDOT will not. Playground areas have the potential to create a lot of noise and be a setting for bad behavior. She asked if the playgrounds were only for the condo residents or for the community. Mr. Ricks responded they were only for the condo residents. She was concerned about too much traffic going in and out directly in front of her home. Ms. Proctor proposed a hypothetical question to Mr. Ricks, "If we reported noise or drug activity to you, how would you respond?"

- Mr. Ricks said he would recommend you tell the police. If it was a renter then he would tell the property manager and take action to have them evicted. If it was a townhouse owner he would just tell the police. Mr. Ricks assured the audience that his company does background checks.
- Drainage discussions ensued again and Mr. Hyman said that maintenance is the biggest problem they have with drainage.
- Mr. Jonathan Godfrey asked if there was something Mr. Ricks or Mr. Hyman could show the neighbors regarding drainage.
- Ms. Lassiter asked if there was some way to add the approval of the rezoning or the Conditional Use Permit to be contingent on the approval of an acceptable drainage plan. She did not feel it was fair to ask a developer to spend large sums of money without knowing that the project was moving forward.
- Mr. David Godfrey, Jonathan Godfrey's father, pointed out a place that is flooded right now that drains near the property. He said the picture of the proposed building looks nice but New Hope is not the right place for it. What are townhouse owners going to say about the crops being sprayed?
- Ms. Lassiter, Mr. Kahl and Mr. Hyman said they can look at putting language in deeds to warn of close proximity to agricultural farming practices.
- Mr. Smith said Perquimans has a Volunteer Agriculture District and property owners should be made aware of it before living there.
- Mr. Kahl acknowledged that he had a problem with his one acre with one septic tank drain field so it concerns him to put four septic drain fields on such a small site.
- A lady in the audience asked where the entrance was going to be. Some other audience attendees showed her.
- A man in the audience asked if eight parking spaces would be the total parking amount. The applicant said there will be two parking spaces per household and the eight spaces out front are for over-flow parking.
- Mr. Kahl asked about fire hydrants to which Mr. Hyman said the Fire Chief recommended placing a new hydrant at the entrance, next to New Hope Road and yes, the applicant was planning on installing a new hydrant.
- Mr. Hyman stated that they understand that post-development run-off must not exceed pre-development run-off, and that downstream conditions cannot be worsened.
- Mr. Kahl asked Planner Godfrey procedurally how the Board should view this. Ms. Godfrey suggested that they start by reviewing the Draft Conditional Use Permit first (and to consider the Draft Conditions, some of which are straight out of Section 907.4 and others which were added by Planning staff for the purpose of considering criteria that has been required in the past for other similar requests. She suggested the Planning Board and Mr. Ricks review the Conditions and to discuss potential additions or adjustments where needed. Afterwards, the Planning Board should take action on the Rezoning Request before taking action on the Conditional Use Permit, as previously discussed. Ms. Godfrey also asked the Planning Board to strike out or delete the second full paragraph from page 1 of the Draft Conditional Use Permit.
- Mr. Kahl asked, "Can we be assured that this project will not hurt the neighborhood?" Mr. Hyman answered yes.

- Someone said this is built at ground level, so what protection will tenants have. More drainage discussion ensued.
- Mr. Manley asked about the vegetative buffer (at the top of page 4 in the Draft Conditional Use Permit CUD-16-01(a). It was suggested that this could be tweaked. Additional discussion on vegetation followed.
- Ms. Godfrey pointed out that Section 907.4 requires “any playground equipment must be located in the rear yard at least ten (10) feet from any property line.”
- Mr. Ricks stated that he wants to work with his neighbors and he is fine with moving the playground to the rear so the general public will not feel inclined to stop by and use it. An audience member (Jeff Birkle) also suggested that moving it to the rear would get it further away from the high amount of traffic on New Hope Road.
- Mr. Smith said he was not ready to act on this tonight and felt we should let the applicant look at the issues discussed here and give the Planning Board more time to look over it.
- Mr. Ricks acknowledged he was not in too much of a hurry to move on the project.
- Ms. Lassiter asked Planner Godfrey if she would make a “laundry” list for Mr. Ricks in the form of a written letter within 10 days and on March 8th this can be brought before the Planning Board again.
- Mr. Smith would like to be able to view the minutes 10 days before the next meeting.

By general consensus the Planning Board decided to continue this discussion at the regularly scheduled meeting on March 8, 2016 in the Commissioners Meeting Room of the courthouse annex.

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Agenda Item III-B: Continuation of Sketch Plan for ‘The Moorings at Albemarle’ by East Coast Consulting, LLC (ECC), for 110 lots near the intersection of Muddy Creek, Cross Neck, and Hoyle Jones Road (Tax Parcel No. 4-0076-0026 [PIN No. 8807-50-9506]). Ms. Godfrey explained that the applicant did not have all their information together, hence the need to postpone the Planning Board’s review and action until next meeting.

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Agenda Items IV-A and IV-B: Planner Godfrey discussed concerns regarding obsolete Highway Corridor Overlay District (HCOD) provisions which need to be updated and amended, and the need to reconsider whether residential development should be permitted along certain segments of the CH and HCOD Zones along Ocean Highway. She stated she continued to receive requests to construct accessory buildings on vacant lots and while this raises general concerns for all of the zoning districts, there are special concerns in the HCOD due to the stepped-up level of beautification and landscaping envisioned for this high-visibility highway. These types of land use considerations need to be done in coordination with the NCDOT long range planners so as to be completely aware of the current and potentially changing limits to any type of development as carried out by NCDOT on behalf of both the State’s Transportation Board as well as the Federal Highway Administration. In regard to previous Planning Board recommendations, the BCC on February 1st approved text amendments to Section 907.27

regarding wind energy facilities (some of which were recommended by the Planning Board as well as additional requirements recommended by Commissioner Muzzulin for evaluation reports for noise, ice drop and throw, blade drop and throw and shadow flicker). Also on February 1st the BCC approved the subdivision proposed by Iberdrola Renewables for transfer of the Desert Wind Substation to Dominion NC Power. Also, at long last on February 10th the Coastal Resource Commission certified the CAMA Plan Update, and the North Carolina Division of Coastal Management has made competitive grant funds available for “Planning and Management” activities such as ordinance updates.

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Chair Paul Kahl adjourned the meeting at 8:03 p.m.

Minutes approved this 14th day of June, 2016.

Paul Kahl _____

Chairperson

Rhonda Money _____

Recorder

Attachments: A (Sign In Sheet); and
B-1 thru B-3 (perspectives of proposed CUD-16-01 4-unit building and related site improvements)