

Town of North Topsail Beach

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Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Frank W. Clifton, Jr.
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

TOWN OF NORTH TOPSAIL BEACH PLANNING BOARD MEETING JANUARY 8, 2009 6:30 P.M.

PRESENT: SUE TUMAN-CHAIRMAN, PAUL DORAZIO-VICE CHAIRMAN, MIKE YAWN, GARY ROWLAND, CAROL EVANS, GUNNAR MATTHEWS, DEBORAH LANCI-ALTERNATE, DEBORAH HILL- ZONING OFFICER, RANDALL MOUDY- BUILDING INSPECTOR, TERRIE WOODLE- PERMIT TECH/RECORDING SECRETARY

NOT PRESENT: GERALD RIGGLEMAN

- 1. CALL TO ORDER:** Mr. Dorazio called the meeting to order at 6:35 p.m. in the North Topsail Beach meeting room.
- 2. ADOPTION OF AGENDA:** Mr. Yawn made a motion to approve the Agenda. Mr. Rowland seconded the motion, motion passed unanimously.
- 3. APPROVAL OF MINUTES:** Mr. Rowland made a motion to approve the minutes. Mr. Matthews seconded the motion, motion passed unanimously.
- 4. PUBLIC COMMENT:** No one from the Public came forward to speak.
- 5. OLD BUSINESS:**
 - A. PUBLIC HEARING: BRIDGE ORDINANCE:** Mr. Yawn made a motion to open the Public Hearing. Mrs. Evans seconded the motion, motion passed unanimously.

Ms. Hill stated after reviewing the policy and procedures on private bridges, staff recommends that Sec. 9.2 Accessory uses be amended to include private bridges and is included in the Board package.

Recommendation is to conduct a public hearing as advertised to consider public comments on proposed amendment to the Zoning Ordinance regarding private bridges.

Mr. Moudy, Building Inspector for the Town of NTB came forward to speak. He stated there are a couple of items in Sec.9.2 Accessory uses that he would like to have changed. Under item 2di he would like to see the statement [Private bridges shall be 20 ft. in width, shall be constructed to NCDOT standards] removed.

He stated if bridges are longer than 500 ft. then they are to be constructed to NCDOT standards, a private bridge 500 ft. and under is covered by the State Building Code and Fire Code. Otherwise every bridge in NTB will have to be constructed to NCDOT standards.

Under item 5 Annual Inspection it states that the annual inspection report be provided to the Building Inspections Dept., item 7 is the same report and needs to go to the Building Inspections Dept. instead of the Planning Dept. He stated item 9 should come out also because there again it is referring to DOT standards.

Mr. Rowland asked if Mr. Moudy is not going to accept NCDOT standards what set of standards is he going to replace it with. Mr. Moudy said it would have to be engineered to 20 ft. wide and would have to meet the tonnage rating specified, if it met those two items and the Fire Marshall signed off on it, it would be acceptable if it were 500 ft. or less. If it is longer than that it needs to meet NCDOT standards.

Mr. Yawn made a motion to close the Public Hearing. Mrs. Evans seconded the motion, motion passed unanimously.

Mr. Yawn made a motion to recommend to the Board of Aldermen that they adopt private bridges as an addendum to Sec. 9.2 Accessory uses with the Fire Marshall signing off on each bridge and with the change to item 7 where the yearly report goes to the Building Inspection Dept. instead of the Planning Dept. Mr. Rowland seconded the motion.

Discussion: Mr. Rowland suggested taking out the date of July 1 of each year for the yearly report, he would like for it to read on the date of the anniversary of the final inspection. Mr. Yawn agreed.

Mr. Dorazio stated that the Planning Board is putting too high of a standard on bridges, if someone wants to build a 150 ft. bridge will the Town tell them it will have to be built to DOT standards? Mr. Yawn stated yes based upon information from DOT when they were here.

Mr. Rowland asked Mr. Moudy to justify wanting to remove item 2di and item 9. Mr. Moudy stated he does not believe if it is less than 500 ft. it needs to be built to DOT standards because the verbiage in the State Building Code states that it "may" include DOT standards, so there is an option there. Item 9 goes along with that, if a bridge is 500 ft. or less it should not have to be built to DOT standards but if the Town is going to hold every bridge to DOT standards then it needs to stay as it is. Mr. Rowland stated item 9 has to be to DOT standards if it is going to be accepted and maintained by the Town or State.

Mr. Yawn repeated his motion with Mr. Rowland's request to modification: Mr. Yawn made a motion to recommend to the Board of Aldermen that they include the addendum to Sec. 9.2 to cover private bridges as it was presented to the Planning Board with two changes, both in item 7. One change would be that the owner of each bridge shall submit a certification by a licensed professional engineer to the NTB Building Inspector not the Planning Dept. Second one would be that the yearly inspections come around once a year, on the date of the anniversary of the final inspection instead of July 1. He would also like to include that the Fire Marshall signs off on each bridge.

Motion died for a lack of a second.

Mr. Rowland made a motion to recommend to the Board of Aldermen that they include the addendum to Sec. 9.2 to cover private bridges as it was presented to the Planning Board with the changes in item 7 (the owner of each bridge shall submit a certification by a licensed professional engineer to the NTB Building Inspector and have a yearly inspection on the anniversary date of the final inspection) and reword 2d. to read that plans to be reviewed by NTB Building Inspections Dept. and that the Fire Marshal signs off on each bridge.

Mr. Dorazio seconded the motion. Motion passed 6-1 with Mr. Yawn opposing.

6. NEW BUSINESS:

A. PROPOSED SUBDIVISION BY JIM DAY: Ms. Hill read her staff report as follows:

Mr. Day is requesting preliminary approval of a major subdivision. The property is located northwest of 2nd, 3rd, 4th, 5th and 6th Avenue in the Stump Sound Township. Zoned R-20 and Con-D, the proposed 4 lots total 10.15-acres and are identified by Tax Map # 811-89.

Access: lots will be accessed via existing 2nd, 3rd, 4th, 5th and 6th Avenue. NCDOT has approved the plans.

CAMA: property is within the Outstanding Resource Waters (ORW). The amount of impervious surface shall not exceed 25% of the lot area within 575 feet of NORMAL HIGH WATER (Estuarine Shoreline-ORW Area of Environmental Concern).

CAMA Land Use Plan: The Land Use Plan classifies this property as “developed.” The proposal meets the requirements of the Land Use Plan.

Fire: The Fire Marshall has reviewed and approved the preliminary plat.

Flood: These lots are eligible for federal flood insurance as they are located outside the Coastal Barrier Resource System area.

Utilities: This plat meets the ONWASA requirements and is recommended for approval. There is a ten (ten) inch water line on Island Dr, a two (2) inch water line on 2nd, 3rd, 4th, 5th and 6th Avenue.

Lots are to be served by Utilities, Inc. Plans are being forwarded to Utilities, Inc. in Charlotte for review and approval.

If individual systems are used, lots shall meet any applicable Onslow County Health Department requirements. Septic systems require a 100 foot setback from mean high water line. There are reduced setbacks for pretreatment systems.

RECOMMENDATION: That the Planning Board grants preliminary approval for the Jim Day Subdivision. Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this Ordinance. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided herein. Final plat submission and review will be in accordance with Sec. 7-257.

Ms. Hill stated one of the issues is that the Ordinance says that sewer lines be available, sewer lines are available however taps are not. She stated there might be legal questions as to whether taps being available or not, does that create a moratorium on subdivisions? The Planning Board may want to recommend that the Board of Aldermen have the Town Attorney look into that.

She stated as long as the sewer lines are available and it is feasible for them to do the extensions, staff would recommend approval on the final. Individual property owners would have to obtain the taps before they can obtain the building permits.

The lots meet all the minimum requirements as far as lot width, size and access. Mr. Rowland asked how many sq. ft. is available on lot four. David Weston, land surveyor came forward, he said he would have to calculate the actual area but there is enough room for a structure on each lot.

Mr. Rowland asked if the total between the buildable area and Con-d qualifies it as R-20. Ms. Hill stated that the minimum lot size for R-20 is that the lot has to be 20,000 sq. ft. and the entire lot is. She stated that Surf City and Onslow County both view that differently. Onslow County as she understands it has to have 20,000 sq. ft of actual R-20 and in Surf City if the total lot area meets the minimum requirement of the more restrictive zoning then they approve it. Mr. Rowland would like to know what the buildable area is on each lot. Mr. Weston stated that he would get that to Ms. Hill.

Mr. Rowland made a motion to table the Subdivision by Jim Day until the Planning Board has more information on the amount of sq. footage of R-20 and the uplands on each of the 4 lots. Motion died for a lack of a second.

Mr. Yawn made a motion to table the Subdivision by Jim Day and ask the Surveyor to bring back to the next meeting the proposed total sq. ft. of R-20 and the total sq. ft of the uplands on each of the four lots and on lot four he would like to know the intersection of those two numbers. Mrs. Evans seconded the motion.
Discussion: Mr. Rowland stated it would be best to table this and give the gentlemen an opportunity to come back with the additional information. Mr. Dorazio stated that it is actually meeting all of the Town's Zoning Ordinances. Mr. Rowland would like to inquire where Onslow County stands on the way they operate vs. Surf City.
Motion to table the Subdivision by Jim Day passed 4-3.

B. PUBLIC HEARING: REZONING CASE # R-09-01: Ms. Hill read her staff report as Follows: Rezoning application for 2.928 acres identified as Tax Parcel Id 779-1.19 From Conservation District (Con-D) to Residential 20 (R-20), owned by Gwynn Builders, Inc., located off of the north side of New River Inlet Road (SR 1568), approximately 3.23 miles from the intersection of Island Drive (SR 210) and New River Inlet Road (SR 1568) in Stump Sound Township.

Staff has received no protests, in accordance with North Carolina Zoning law for a protest petition, G.S. 160A-385(a). As no qualified protest petition has been received, approval of the proposed Zoning Map Amendment will require a simple majority approval by the Board of Aldermen.

The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories. There is a convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group. Con-D to R-20 zoning is an increase in density and loss 2.929 acres of Con-D.

There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved. The proposed zoning to R-20 would allow for construction of single family homes and is more dense than the current Con-D zoning. Accordingly, the proposed change in use from Con-D will result an increase in use, and decrease in conservation district and an increase in density.

There is a convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change. The surrounding properties are zoned R-20, R-10 and Con-D. The proposed change is in accordance with any Land Use Plan and sound planning principles. The proposed rezoning is not in accordance with the 1996 North Topsail Beach Land Use Plan Land Classification Map p. 3-6, which classifies the property as conservation.

Recommendation: That the Planning Board recommends to the Board of Aldermen that the request be denied, as the proposed rezoning is not in accordance with the 1996 North Topsail Beach Land Use Plan Land Classification Map p. 3-6, which classifies the property as conservation.

Granting the Rezoning Request: Motion to recommend approval of the rezoning and adopt Ordinance R-09-01 upon finding that the rezoning is reasonable considering one or more of the above findings of fact A through E being found in the affirmative and that the rezoning advances the public interest.

Denying the Rezoning Request: Motion to recommend denial of the rezoning upon finding that the proposed rezoning does not advance the public interest and is unreasonable due to one of the following: A. The size of the tract. B. Incompatibility with the CAMA Land Use Plan. C. Impact to surrounding community and immediate neighbors. D. Propose uses are extremely dissimilar to those currently permitted.

Mr. Charles Riggs representing Gwynn Builders, Inc. came forward to speak. He stated prior to 1996 this piece of property was water, it was not zoned. Now it is all uplands, it is all sand and is high ground. It says very plainly in North Topsail Beach's Zoning Ordinance that land that is truly accreted should receive the same zoning as the adjoining property. On the East side of this property is R-10, South and West by R-20 and on the North is Conservation and then there is R-8 on the other side. This is a piece that has truly been accreted from the R-10 and R-20 direction and is truly in line with adjacent properties and the adjacent properties will be of similar use.

He stated that Mr. Dodson came to the Town last year to have this piece of property rezoned R-10 and it was denied, therefore Mr. Riggs is coming back for a more restrictive request of R-20.

Mr. Rowland made a motion to open the Public Hearing. Mr. Yawn seconded the motion, motion passed unanimously.

Mrs. Tuman asked if any one from the Public would like to speak. No one came forward.

Mr. Yawn made a motion to close the Public Hearing. Mr. Rowland seconded the motion, motion passed unanimously.

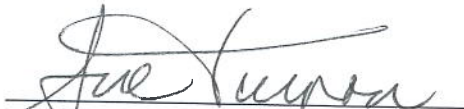
Discussion: Mr. Yawn stated that he agrees in part with Mr. Riggs, this land has accreted. Mr. Yawn stated if they believe it was water and was accreted, it should be split into three zoning designations. Land that is adjacent to Con-D should be Con-D, land that is adjacent to R-10 should be R-10 and the land that is adjacent to R-20 should be R-20.

Mr. Dorazio made a motion to rezone the property to R-20. Motion died for lack of a second.


Mr. Yawn made a motion to recommend to the Board of Aldermen that they retain the Con-d designation for Tax Parcel Id 779-1.19 as this property is incompatibility with the CAMA Land Use Plan. Mrs. Evans seconded the motion. Motion passed 5-2 with Mr. Matthews and Mr. Dorazio voting against.

7. **PLANNING BOARD AND STAFF DISCUSSION:** Staff and Planning Board members discussed the Land Use Plan.
8. **PUBLIC COMMENT:** No one from the Public came forward to speak.
9. **ADJOURNMENT:** Mr. Yawn made a motion to adjourn. Mr. Dorazio seconded the motion, motion passed unanimously.

The Planning Board meeting adjourned at 8:21 p.m. January 8, 2009. Minutes prepared by Terrie Woodle- Permit Tech/Recording Secretary.


Sue Tuman- Chairman

Date 2/12/09


Terrie Woodle
Permit Tech/ Recording Secretary

Date 2/12/09