

Town of North Topsail Beach



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

Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

TOWN OF NORTH TOPSAIL BEACH PLANNING BOARD MINUTES NOVEMBER 12, 2009 6:30 P.M.

PRESENT: SUE TUMAN-CHAIRMAN, PAUL DORAZIO-VICE CHAIRMAN, GARY ROWLAND, HANNA McCLOUD, SUZANNE GRAY-ALTERNATE, DEBORAH HILL- PLANNING & ZONING ADMINISTRATOR, TERRIE WOODLE- PERMIT TECH/RECORDING SECRETARY

NOT PRESENT: GERALD RIGGLEMAN, GUNNAR MATTHEWS, DEBORAH LANCI

1. **CALL TO ORDER:** Mrs. Tuman called the meeting to order at 6:38 p.m. in the North Topsail Beach meeting room.
2. **ADOPTION OF AGENDA:** Mr. Rowland made a motion to adopt the Agenda. Mr. Dorazio seconded the motion, motion passed unanimously.
3. **APPROVAL OF MINUTES:** Mr. Rowland made a motion to approve the minutes. Mr. Dorazio seconded the motion, motion passed unanimously.
4. **PUBLIC COMMENT:** No one from the public came forward to speak. Mr. Rowland moved to close Public Comment. Mrs. McCloud seconded the motion, motion passed unanimously.
5. **OLD BUSINESS:**

A. **CONDITIONAL USE DISTRICTS:**

On October 8, 2009, the Planning Board directed staff to determine whether the Town should have a CUR-10 classification and if so, draft the Town's current zoning ordinances to include CUR-10.

Staff recommends consideration of an ordinance to amend Chapter 7 Planning & Zoning Ordinance by adopting conditional zoning (and repealing conditional use district zoning) as a land use approval process.

Conditional or Special Use District (CUD) zoning has been authorized in North Carolina since the mid 1960's. Despite the benefits of flexibility that CUD zoning provides, its legal and theoretical underpinnings – bifurcating the legislative rezoning from the quasi-judicial conditional use permit – have always been difficult to apply in practice.

In 2001 and 2002, the North Carolina Court of Appeals in two cases (review denied by the Supreme Court) approved the use of "conditional zoning." Conditional zoning is essentially

the same practically and conceptually as CUD zoning in that it is a rezoning based on a site specific development plan, and the applicant is bound by the conditions in the ordinance. Legally, however, it collapses what was an awkward two-step process into a single process.

One important difference for the Planning Board is that the conditional zoning process requires no specific findings. Decisions should still be based on sound land use guidance principles, however, and this is set forth in the proposed ordinances. Conditional zoning is like adopting a set of development regulations (building height, setback, etc.) and applying them to a single property or group of properties, creating a single use classification. Procedurally, the process is much less complicated than CUD zoning. The process for appealing a conditional zoning ordinance into the courts would be different as well.

The application process would be mostly unchanged from the current process for CUD zoning – requiring that the owner be the applicant, that a site specific plan be submitted, and that the uses be specified.

The current CUD zoning process would be eliminated for future use. Any CUD zoning designations established by this process, however, would continue to be governed by the CUD ordinance.

Considerations:

- streamlined process at Planning Board/Board of Aldermen level, and in courts
- increased flexibility in zoning
- less administrative time required to process applications, administer ordinance
- less vulnerability to judicial challenge
- susceptible to over use

RECOMMENDATION:

That Staff continue to research 1) whether or not CUR-10 was adopted by the Board of Alderman but possibly not included in the text of the Ordinance; and 2) the merits of conditional zoning, specifically how other localities have implemented and benefited from conditional zoning compared to Conditional Use Districts.

Ms. Hill stated that she will inform the Planning Board at their next meeting in December whether or not there is any existence of the adoption of CUR-10 in the Ordinance. She will also pull the final plat on Dolphin Shores subdivision to determine whether or not the streets are public or private.

B. ZONING MAP: Zoning Map (cont.)

Staff spoke with Landin Holland of Holland Consulting Planners, Inc. regarding the zoning boundary differences between the Zoning Map and Onslow County GIS for the following two areas:

- a. Tax Parcels 815A-21, 815-11, 815-12, 815-13, 815-13.2, 815-14, 815-15 and 815-16; and
- b. Tax Parcel 768-8.1 Owned by Ocean Ridge HOA & Others.

The differences may have resulted from using maps with hand drawn boundaries, compared to the digitized GIS maps.

Upon confirmation from the Planning Board, Staff will submit a request to Patricia Pike, Director of Onslow County GIS to make the following corrections:

- a. Tax Parcels 763-1.4 & 763-1.8 Owned by TP Inc. Staff recommends that Onslow County GIS correct zoning from Con-D to R-20 for Tax Parcels 763-1.4 & 763-1.8 as indicated on the Official Zoning Map adopted by the Board of Alderman on March 1, 2007.
- b. Tax Parcels 813-7.15 & 813-7 Owned by TP Inc. Staff recommends that GIS correct zoning from CUR-10 to R-10.

RECOMMENDATION:

- 1) that Planning Board and Staff determine the correct boundaries for the following by again reviewing the zoning boundaries from 1982, 1992 and the associated worksheets and if change from Zoning Map, that a public hearing be scheduled for the next regular meeting of the Planning Board:
 - a. Tax Parcels 815A-21, 815-11, 815-12, 815-13, 815-13.2, 815-14, 815-15 and 815-16; and

Mr. Rowland made a motion to rescind the decision that was made at their September 10th meeting on the Sea Oats Ct. Tax Parcel # 815A-21 and four properties adjacent Island Dr. Mrs. McCloud seconded the motion, motion passed unanimously.

Mr. Rowland made a motion to recommend Staff go out and delineate the wetlands to have a basis for the recommendation in determining the zoning boundary line. Mr. Dorazio seconded the motion, motion passed unanimously.

- b. Tax Parcel 768-8.1 Owned by Ocean Ridge HOA & Others.

Mr. Rowland made a motion to rescind the decision that was made at their September 10th meeting on the Ocean Ridge HOA & Others Tax Parcel # 768-8.1 Island Dr. corrected zoning from B-2 to B-1 and add Tax Parcel # 768-8.1 to the list for a Public Hearing to reflect the B-1 boundary line in 1982. Mr. Dorazio seconded the motion, motion passed unanimously.

Mr. Rowland made a motion to recommend Staff go out and delineate the wetlands to have a basis for the recommendation in determining the zoning boundary line. Mr. Dorazio seconded the motion, motion passed unanimously.

- 2) In the matter of Dolphin Shores and other CUR-10 property, that Staff research whether or not CUR-10 was adopted by the Board of Alderman but possibly not included in the text of the Ordinance.

C. UNDERSIZED LOTS OF RECORD: Non conforming Lot Analysis by Eastern Carolina Council:

Staff reported the following: Mr. Rowland suggested taking one section at a time, first addressing the Judy Hooks property that resulted in going to the Board of Adjustment recently. Planning Board directed Staff to provide background on the number of non conforming undersized lots that are yet to be developed.

She met with Rob Will of Eastern Carolina Council and presented Non conforming Lot Analysis report to Planning Board.

RECOMMENDATION:

Ms. Hill stated that her immediate goal is to mark up the map and get it to Rob Will of the Eastern Carolina Council; she will have an update for the Planning Board at their December meeting.

6. NEW BUSINESS: No new Business.

7. PLANNING BOARD AND STAFF DISCUSSION: Ms. Hill updated the Planning Board members on Quenzer plat in Dolphin Shores. She discussed the Quenzer recombination with both the Town Attorney and Richard Ducker with the School of Government and was advised by Richard Ducker that the recombination is in fact exempt from the Planning Board and Board of Aldermen review and therefore need not be presented to either Board. Any disputes between Dolphin Shores HOA and the Quenzers should be a civil matter and the Town should not be involved.

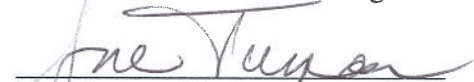
Planning Board members, having also reviewed Ducker's response to staff, concurred by consensus.

A. UNIFIED DEVELOPMENT ORDINANCE: Ms. Hill stated that she is continuing to work on the UDO.

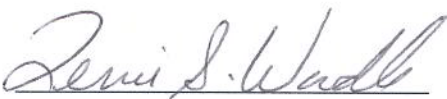
8. PUBLIC COMMENT: No one from the Public came forward to speak.

9. ADJOURNMENT: Mr. Rowland made a motion to adjourn. Mr. Dorazio seconded the motion, motion passed unanimously.

The Planning Board meeting adjourned at 8:10 p.m. November 12, 2009. Minutes prepared by Terrie Woodle- Permit Tech/Recording Secretary.


Sue Tuman- Chairman

Date: 12/10/09


Terrie Woodle-Permit Tech
Recording Secretary

Date: 12/10/09