

Memorandum

To: Southern Shores Town Council
CC: Town Manager
From: George Kowalski, Chairman, Planning Board
Date: 4/30/2007
Re: Recap, Planning Board Meeting of April 16, 2007

Planning Board recommended actions for the Town Council:

- 1. Approve the site application, subject to special conditions, LDA 2007-04-01, My Home Options.**
- 2. Partially approve the site application LDA 2007-04-02, Verizon Wireless Temporary Tower.**
- 3. Subsequent to holding a public hearing, approve Ordinance No. 2005-06-PB9, Home Occupation.**

Organization: Chairman Kowalski called the meeting to order at 7:00 PM. Planning Board members George Kowalski, Georgine Poisal, Jay Russell, Dave Peckens, Joe Walter, ETJ Representative Ed Overton, Alternate Nancy Wendt, and Alternate Jim Connors were all present. Also in attendance were the Code Enforcement Administrator Mike Hejduk and Administrative Support Assistant Cyndy Gabrys.

Approval of Agenda: Agenda approved

Approval of Minutes: The minutes of the regular meeting held March 19, 2007, were approved with minor changes.

Public Comment: There was no public comment.

Committee Reports:

The **Stormwater Management Advisory Committee** report was presented by Jay Russell, who stated that the committee will be presenting their findings at the next Town Council workshop, April 24, 2007. Robert McClendon of the UNC Coastal Studies Institute will be presenting the committee's report along with a PowerPoint presentation.

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The **Hazard Mitigation Plan Committee** report was given by Mike Hejduk. He stated that the Council will be presented with choices that need to be made at the next Town Council Workshop meeting, April 24, 2007.

The **Vegetative Advisory Committee** proposed ordinance was presented by its chairman, Jim Connors and members Gigi Hagenah, Sally Lowe, Helen Van Lear, Tony DiBernardo, Lori DiBernardo, Kathy Mucullough-Testa. The members answered a variety of question submitted by the Planning Board and gave their perspectives on the Town's role in protecting vegetation. After extensive discussion it was decided that certain issues would need to be discussed and resolved at a combined Planning Board and Vegetation Committee meeting. Jim will announce that date in the near future.

The **Land Use Plan/ Steering Committee**: The report was presented by Nancy Wendt who said that results from the March 29, 2007 meeting held at the Duck Woods Country Club have as of yet not been sent back to the committee. Further action will be taken once those results are discussed.

Applications:

1. LDA 2007-04-01: My Home Options

This application is for the construction of a new building on the last available piece of commercial real estate in Martin's Point, 6345 N. Croatan Hwy. Representing the applicant was John De Lucia. This application came complete fulfilling all filing requirements. The building is an exemplary example of style and architecture and will how an home electronics business.

Subsequent to discussion, the Board, by motion, unanimously approved the recommendation that Council approve the application LDA 2007-04-01 subject to the Standard Conditions specified on page 1 of 9 of the Planning Board Application Summary.

2. LDA 2007-04-02: Verizon Wireless Temporary Tower

Sit back and relax because this section is going to take some concentration to understand the logic of the decisions. Here goes:

Verizon Wireless, represented by Gary Pennington, Ashley Tobias, Laurie Roker and others came to discuss a problem that Verizon was having in the Outer Banks, especially in the Duck-Southern Shores corridor. Their antenna system, on the water tower in Southern Shores, can only handle 1,000 telephone calls at a time. The Duck tower antenna is the same. Not only is the handling of 2,000 cell phone calls, at any given time is insufficient, during the summer months, for the number of tourists present, but also creates usage dissatisfaction for residence of Southern Shores and Duck who are Verizon customers, who experience lack of service and dropped calls.

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Calls will be difficult to send and receive. Verizon is therefore asking for a temporary solution to this problem by installing a COW (cell on wheels) at 7 Sandfiddler Court in Southern Shores, at the site where Sprint had their COW, after the tower collapsed in Kitty Hawk. However these two COWS are not be the same since there is not an emergency in Verizon's case and therefore the tower falls under different set of regulations. It must be able to withstand 150 mph winds and since it has to be synched with the other two antenna sites, it will have to be 125 feet tall. This is a more substantially constructed tower and the building that houses the equipment shelter (12 ft x 30 ft.) cannot be mounted on wheels and must be anchored. The "temporary time" defined by Verizon is May through October, 2007. This would increase the number of calls that can be handled to approximately 3000 and would give Verizon time to negotiate a permanent solution. This request would only be made once, since a permanent solution would be created, within the following year, and hopefully it would solve any further problems. Mr. Pennington admitted that Verizon was caught unaware by the explosive popularity of their service in this area (Virginia/North Carolina coastal region) which outpaced the New York City Metropolitan area this past year.

There is however a major stumbling block. 7 Sandfiddler Court is zoned R1, Low density residential, and there is no permitted use for a cell tower without a water tank attached. If the Planning Board approved a zoning change and presented it for Town Council approval, the earliest adoption of that change could take place, after a public hearing, some time in June or July and given the time for installation, would not help Verizon's problem. The Planning Board does not have the power to grant Verizon temporary COW status. Only the Town Council has that power. So we have a quandary.

The Planning Board realizes that Verizon is not the only cell carrier that will have cell phone issues in the future and these issues can only be solved by establishing new towers.

In the Town code, in Chapter 7, section 7-20 Powers and Duties the following is stated:

(a) It shall be the duty of the planning board to prepare plans and to coordinate the plans of the town and those of others so as to bring about a coordinated and harmonious development of the area. The planning board is hereby designated as the planning agency for the preparation or revision of the zoning ordinances of the town under authority of Article 19 of Chapter 160A of North Carolina General Statutes. In addition, the planning board is directed and authorized:

(1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.

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(2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area. The comprehensive plan shall be the planning board's recommendations to the council for the orderly development of the town, including, among other things, the general location, character, and extent of streets, bridges, waterways, parks, playgrounds, open spaces, and public utilities.

The Planning Board therefore recognizes that it is responsible to keep abreast of current and future technological and electronic communication requirements of its citizenry and the public utilities that supply them, within the fragile ecological system we live in.

The Planning Board also recognizes that 120 foot towers are an unsightly view on the horizon even if they can be disguised as pine trees. This temporary solution is an unsightly solution and the 120 foot height of the tower is based upon the height required to sequence with the antennas on the two other towers, since the land that the tower sits upon is 10 feet above sea level. This Duck Road corridor is not a place to house these types of towers. There maybe be better sites in town to erect permanent towers. For example, there may be association properties on the higher grounds of Sea Oats Trail or Hickory Trail, which would elevate the base of the tower to 50-60 feet and if that land had 30-50 foot trees, it would only necessitate a tower poking its fake, forested head, 20 or so feet above the tree canopy. The cell tower would be more inconspicuous and could possibly even lower. In order for this new tower placement to happen, the zoning has to be changed and cell phone towers need to be a conditional use in an RS-1 district.

Subsequent to discussion, the Planning Board, by motion, unanimously approved the recommendation that Council partially approve the application LDA 2007-04-02 with the following stipulations:

The Town Council grant Verizon the temporary placement of a 120 foot cell phone tower at 7 Sandfiddler Court for the time period of May 1, 2007 until the last day of October, 2007. That the surrounding home owners be notified of the particulars beforehand as a courtesy, so they do not learn about this after the tower is installed. That the temporary tower and accessory equipment shelter might be considered an accessory to the existing utility (Sprint Telephone Building) on the site even without a water tower subject to the Special Conditions, (1. A 120 foot tower must be located at a distance equal to its height from any residence,) and Standard Conditions as shown on page 1 of 9 on the Planning Board Application Summary. This request will not be an perennial occurrence and is only granted once to Verizon Wireless.

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That in order to perform Planning Board duties as stated in Chapter 7, the Town Council recommends that staff begin the process of writing a change to the RS -1 zoning definition to allow the construction of cell phone towers, as conditional uses, with specific conditions listed, and that a rewrite be presented to the Planning Board, as soon as possible, so that it may follow the prescribed procedure for possible approval.

Other Business

Old Business

1. Ordinance No. 2006-06-PB9 (An Ordinance of the Southern Shores Town Council Relating to Amending the Zoning Ordinance Relating to Home Occupations.)

This is the final result of a long and arduous process started more than two years ago to modify the Home Occupation definition and rules within the Town. The Planning Board agreed to a version that originated in Savannah, Georgia. It is a document that is more descriptive and more exacting than the current code.

Subsequent to discussion, the Board, by motion, unanimously approved, that the Town Council, subsequent to a public hearing, adopts proposed Ordinance No. 2006-06-PB9.

New Business:

There was no new business.

Other Items:

There were no other items presented by Planning Board members.

Mike Hejduk explained that there had been no construction activity this month at the Marketplace, the dentist office on S. Dogwood, or the generator installation at the water tower. The Kitty Hawk Elementary school ball field construction is moving along as planned.

Announcements:

Next regular meeting: Monday, May 21, 2007; 7:00PM Pitts Center

Adjournment: Upon motion, the Planning Board meeting adjourned.