

The Morehead City Planning Board conducted a remote public meeting on Tuesday, July 21, 2020, via the Zoom video conferencing application, at 5:30 p.m. The following people were present:

MEMBERS: Tom Outlaw, Ronetta Gaskill, Sally Lumpkin, Tom Saunders, Andrea Smith, and Diana Tootle.

ABSENT: None

Others present: Planning and Inspections Director Sandi Watkins, Planner Mackenzie Todd, Elise Clouser with the Carteret County News-Times, Ron Cullipher with The Cullipher Group, P.A., and Sarah West.

Chairman Tom Outlaw called the meeting to order and gave the invocation.

The roll was called and no one was absent.

Diana Tootle led the Pledge of Allegiance.

MINUTES: June 16, 2020: Ronetta Gaskill made **MOTION**, seconded by Diana Tootle, to adopt the minutes and dispense with the reading. The motion carried unanimously.

NEWBUSINESS:

A.) Request from The Cullipher Group, LLC on behalf of Elkview Holdings, LLC, for Preliminary Plat Approval for property located at 175 Old Murdoch Road (Tax PIN #635606494185000), zoned PD (Planned Development).

Sketch Development Plan Review: March 19, 2002
Sketch Development Plan Approval: April 9, 2002
Site Development Master Plan Review and Preliminary Plat Approval: May 19, 2009
Site Development Master Plan Approval: June 9, 2009
Preliminary Approval Valid to December 30, 2013 as a result of S.L. 2010-177
Preliminary Plat Extension: November 19, 2013 (Expired)
Final Plat Approval: August 20, 2014 (Expired)
Preliminary Plat Extension: October 10, 2015
Expiration of Preliminary Plat: November 19, 2016
Site Development Master Plan and Preliminary Plat Approval: April 17, 2018

The Cullipher Group, LLC, on behalf of Elkview Holdings, LLC, has submitted a request for Preliminary Plat approval for Park Villas Planned Development (PD). The property is located at 175 Old Murdoch Road and is within Morehead City's corporate limits. Phases I and II were constructed as condominium lots with a total of 16 units. A total of 36 townhouse lots have been platted in Phases III and IV. According to the preliminary plat approved by the Planning Board in April 2018, Phase V would consist of 15 townhouse lots for a total of 51 townhouse lots and 16 condominium lots in the Park Villas development. Since Phase V never received final plat approval and the preliminary plat expired in April 2020, it is necessary for the preliminary plat to be approved again for the developer to move forward with requesting final plat for the final phase of the development.

The Planning Board approved an identical version of this preliminary plat on April 17, 2018 which has since expired. Note: According to Article 12-1.8 of the Unified Development Ordinance, Preliminary Plat shall be null and void upon expiration of the twenty-four-month period unless an extension has been granted. No request for extension was submitted prior to the 24-month expiration deadline.

Planning Board Meeting:

General: The adjacent property is zoned PD to the north; CH (Highway Commercial) to the south and west; and CH, CH-CU (Highway Commercial Conditional-Use) and R15M (Single-Family Residential/Mobile Home) to the east. Adjacent development includes multifamily (Blue Point Bay) to the north; motor vehicle sales and a shopping center (Brandywine Crossing) which contains a mixture of retail, personal services, and restaurants to the south; a self-service storage facility and single-family residential to the east; and a church (South Banks) and strip of land owned by Blue Point Bay to the west.

Density: Sixty-seven (67) dwelling units on 12.1 acres results in a density of 5.54 units per acre.

Height and Setbacks: The maximum allowable height in the PD District is seventy (70) feet. The townhouses will be a maximum of 3 stories. The minimum setback in the PD district is 10'.

Open Space: A minimum 10% useable (52,602 square feet) and 18% natural (94,684 square feet) open space is required for this multifamily project. The proposal meets this requirement with 11% useable (55,575 square feet) and 41% natural (217,089 square feet) open space.

Parking: Parking is calculated based upon two spaces per multifamily dwelling unit/lot, plus one space for every six units for overflow. The proposal exceeds the requirement of 145 spaces (67 * 2 + 67/6) with a total of 183 spaces.

Utilities: The development will be serviced by Morehead City water and sewer utilities.

Preliminary Plat Approval Procedures:

Town technical review staff (Fire, Public Services (water/sewer/streets), Planning) review the Preliminary Plat. At this stage, the developer should have all permits in hand to start construction of the project. The Planning Board does have the authority to grant preliminary plat approval conditional upon receipt of any outstanding permits.

The purpose of the review is to check to make sure that the preliminary plat is consistent with the sketch plan and with all applicable City regulations (i.e. lot sizes, street standards, open space requirements, etc.). A preliminary plat may constitute just a portion or phase of the sketch plan. Once preliminary plat approval is granted by the Planning Board, the developer is authorized to start construction (i.e. streets, water/sewer system, etc.). If it is a conditional approval (to bring into compliance as mentioned above), all the conditions must be met prior to commencement of construction. If preliminary plat approval is denied, the applicant has the right to appeal the Planning Board's decision to the Council.

Planner Mackenzie Todd introduced the request. Ms. Todd explained that an identical preliminary plat for Park Villas had been approved by the Planning Board in April of 2018, but has since expired.

Applicant Ron Cullipher, of The Cullipher Group, P.A., spoke in favor of the request stating that the firm had missed the deadline to file for an extension of the preliminary plat which would have allowed it to stay active and are respectfully requesting approval on an identical plat.

Sally Lumpkin asked if any changes to the Unified Development Ordinance had occurred since the original approval in April of 2018 which may impact the request. Planning Director Sandi Watkins said that no changes have occurred during that time to the subdivision regulations.

Tom Saunders made **MOTION**, seconded by Sally Lumpkin, to approve the preliminary plat renewal request. The motion carried unanimously.

B.) City-initiated request to amend subsection 2-2.138 and 2-2.172 of the Unified Development Ordinance (UDO) to adjust the definitions for “Junked motor vehicle” and “Motor vehicle”.

The following is a City-initiated request to amend subsection 2-2.138 and 2-2.172 of the Unified Development Ordinance (UDO) to adjust the definitions for ‘Junked motor vehicle’ and ‘Motor vehicle’.

The proposed amendments would provide a mechanism to better enforce junked motor vehicles and boats. Proposed additions are shown in blue and proposed deletions are shown with strikethrough formatting:

Article 2. Basic Definitions and Interpretations

2-2 Definitions of Basic Terms

2-2.138 *Junked motor vehicle.* ~~As authorized and defined in G.S. 160A-303.2, the term, junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and~~ **A motor vehicle that:**

(A) Is partially dismantled or wrecked; or

(B) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(C) Is more than five (5) years old ~~and appears to be worth less than one hundred dollars (\$100.00) and worth less than five hundred dollars (\$500); or~~

(D) Does not display a current license plate.

2-2.172 *Motor vehicle or vehicle.* All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Planning Director Sandi Watkins introduced the request. There was discussion among Board members about how long a vehicle could sit unused before being classified as “junked” as well as other regulations that currently exist in the Unified Development Ordinance (UDO) pertaining to a junked motor vehicle. Director Watkins described for the Board the process of receiving and processing violations from start to finish. She also clarified that the UDO does allow for one covered “junked” motor vehicle to be kept in a rear yard.

Andrea Smith spoke in favor of the definition increasing the value of a junked motor vehicle from one-hundred to five-hundred dollars to allow the Town to have some room for discretion.

Andrea Smith made **MOTION**, seconded by Sally Lumpkin, to recommend approval of the text amendment request and Resolution 2020-0004. The motion carried unanimously.

C.) City-initiated request to amend the Unified Development Ordinance by adding definitions under subsection 2-2 for “Determination”, “Development regulation”, “Evidentiary hearing”, and Quasi-judicial decision” and by amending Articles 5 and 6 to comply with Chapter 160D of the North Carolina General Statutes and by amending sections 4-29, 16-8, and 16-11 to require quasi-judicial subdivision variance requests be heard by the Board of Adjustment.

The General Assembly enacted S.L. 2020-25 (S.720) making Chapter 160D effective as of June 19, 2020. Chapter 160D consolidates, reorganizes, and modernizes the state’s planning and development regulation statutes and repeals existing statutes (David Owens, 2020). Local governments can enact their amendments now, but they are not required to do so until July 1, 2021. Staff is diligently working to update the Town’s Unified Development Ordinance to comply with Chapter 160D, and this is one of the first installments of the overall update.

According to the UNC School of Government, quasi-judicial hearings, such as variances and special use permits, are generally assigned to an appointed board, such as a Board of Adjustment. Legislative decisions, such as rezoning and ordinance amendments, are assigned to the governing board. Where an advisory board is involved in a quasi-judicial case, there are limitations on how its recommendation can be presented to the board making the decision in that the decision-making body must hear the relevant information and ascertain the credibility of each witness. Currently in Morehead City, all variances are heard before the Board of Adjustment, with the exception of subdivision variances. Accordingly, staff is recommending that all variance types, including subdivision variances, be heard before the Board of Adjustment.

Type of Decision	Example	Typical Assignment
Legislative	Rezoning	Governing Board
Quasi-judicial	Variance or special use permit	Board of Adjustment
Advisory	Recommendation on rezoning	Planning Board
Administrative	Notice of zoning violation	Staff

Source: Introduction to Land Use Regulations, UNC School of Government, Adam Lovelady.

Planning Director Sandi Watkins introduced the request. Ms. Watkins began by discussing the recent legislation adopted in 2019 which made significant changes to the land use laws in North

Carolina. Ms. Watkins stated that all statute references in the UDO must be adjusted to comply with the new law and that all of the changes in the draft amendment request have undergone an in-depth review by the City Attorney.

The second part of the proposed amendment covers sections of the ordinance that pertain to subdivision variances. The current UDO language ties subdivision variances in with the subdivision process. This can be confusing since different decision types require the application of different sets of rules. Variances are quasi-judicial in nature and require a formal evidentiary hearing where sworn witnesses present testimony and a formal decision is rendered. The Town is proposing to move subdivision variances to the Board of Adjustment which is accustomed to handling other quasi-judicial variance cases.

Director Watkins explained to the Board that the majority of the language in the draft amendment mirrors the new land use law, with only few sections being optional changes. One such optional change is section 5-3.2(b), which addresses variances allowed for hardships created by personal circumstances. Communities are now able to adopt language that would allow a variance to be granted when necessary under the Fair Housing Act for a person with a disability. Andrea Smith stated that she was in favor of this optional language.

Tom Saunders made **MOTION**, seconded by Andrea Smith, to approve the text amendment request and Resolution 2020-0005. The motion carried unanimously.

REQUESTS/COMMENTS: Planning Director Watkins entered the attendance record and monthly reports for the record. Ms. Watkins also said there is a vacancy for an Extraterritorial Jurisdiction member on the Planning Board since Mr. Eastman's has moved outside of the Morehead City ETJ.

ADJOURNMENT:

There being no further requests or comments, the meeting adjourned at 6:20 p.m.

Annie Bunnell, Secretary