

**The Town of Pine Knoll Shores
Planning Board Monthly Meeting
November 27, 2018 5 P.M.
Meeting Minutes**

In attendance for the meeting:

Planning Board Members: Marsh Cobin, Ike Pipkin, Kathy Werle, Paul Payne, Bud Daniels, Bob Holman and Doug Browne

Staff: Kevin Reed, Jim Taylor, and Sarah Williams

Call to Order and Pledge of Allegiance

Chairman Payne called the meeting to order and led the Pledge of Allegiance.

Approval of the Agenda

Agenda was approved unanimously on a motion by Member Werle and a second by Member Pipkin.

Administration of Oaths

Town Clerk Williams administered oaths of office to Chairman Paul Payne, Bob Holman, and Kathy Werle.

Approval of Meeting Minutes

The minutes from the August 21, 2018 meeting were approved unanimously on a motion by Member Daniels with a second by Member Browne. The minutes from the August 28, 2018 meeting were approved unanimously on a motion by Member Werle with a second by Member Daniels.

Public Comment

**(Citizens are allowed to voice Town-related concerns and opinions during this time. Before speaking, each participant must sign in on the speaker roster list, located at the Clerk's Desk. Speakers will be heard on a first-come, first-served basis. Each speaker will be given up to three (3) minutes.)*

There was no public comment.

New Business

Maritime Woods Revised Preliminary Subdivision Plat

Town Planner Reed briefed the board on his memo. Excerpts of his memo are included:

The Town has received a request from Baker & Smith, LLC for review of a revised preliminary subdivision plat for the proposed Maritime Woods Subdivision (cover letter from engineer and copy of revised preliminary plat are attached to this memorandum). The Board of Commissioners approved a preliminary plat with conditions at its July 11, 2018 meeting. Since that time, the developer and their consulting engineer have been working to complete the checklist of conditions. The following is a summary of those conditions and the current status shown in italics.

1. *Status of the required driveway permit from NCDOT for the two connections to Pine Knoll Boulevard as well as the sidewalks proposed along NC Highway 58 and Pine Knoll Boulevard. The engineer has provided staff with a copy of the driveway permit for the two connections to Pine Knoll Boulevard. The Town will be accepting a fee in lieu of for sidewalk construction along the west side of*

Pine Knoll Boulevard. This was the preferred option of the Board of Commissioners rather than sidewalks along the north side of NC 58 and the east side of Pine Knoll Boulevard.

2. *With regards to the wetlands, does US Army Corps of Engineers (USACE) have jurisdiction? If so, what is the status of USACE approval of wetland delineation? Additionally, is a permit required/pending for filing of the northern most wetlands located in proposed road serving the subdivision? The USACE does have jurisdiction on the wetlands shown on the plat. The USACE has approved the wetland delineation and issued a permit to impact/fill 0.011 acre of wetlands for the construction of the entrance road (northern most) into the subdivision.*

3. *Will a stormwater plan be submitted in accordance with Pine Knoll Shore's stormwater regulations? If not, status of state permit and clarification that a waiver to Pine Knoll Shores stormwater standards will be sought with State permit in hand. The engineer has provided a copy of the State stormwater permit (approved as a Low Density Subdivision and Permeable Pavement Stormwater Control Measures (SCMs) Project) and requested that the Town's stormwater requirements be waived in accordance with Section 74-87 (3)(e) of the Town Code.*

4. *What is status regarding approval of the design for the water distribution system? Any impact on pavement with regards to street cuts for meter/service installation? Engineer has provided an update from NC Water Resources that the design of the system has been approved and permitted for construction. Staff is awaiting copies of those approvals. In addition, the engineer has provided a copy of the approved encroachment agreement from NCDOT to jack/bore across Pine Knoll Boulevard to access water main along the western portion of the Pine Knoll Boulevard.*

5. *Status of electrical service to serve the proposed development. Engineer has provided a letter from Carteret-Craven Electric Cooperative that they can service the proposed development.*

6. *Is the United States Postal Service (USPS) requiring a centralized mail delivery location? Engineer has indicated they will be required to provide a centralized facility for mail and its' location is shown on the revised preliminary plat. Staff is awaiting documentation from the USPS regarding approval of the mail kiosk.*

7. *Status of required State Erosion and Sediment Control Permit for the proposed development. Engineer has provided a copy of the approved State Erosion and Sediment Control Permit.*

8. *Status of proof of septic suitability for the proposed 22 lots. Engineer has provided to the Town Septic System Improvement Permits issued by the Carteret County Health Department for all of the proposed 22 lots in the subdivision.*

As mentioned earlier, the State has issued a stormwater permit for the development as a Low Density Subdivision and Permeable Pavement Stormwater Control Measures (SCMs) Project. A Low Density project means the Built Upon Area (BUA) for the entire project site will be limited to 12% or approximately 50,618 square feet. Additionally, the permit dictates that the BUA for each lot be limited to 2,078 square feet. The permit's BUA limits for each lot means that BUA will range from 9% to 20% per lot. Please note that the Town Code could have permitted a BUA total of 35%. The State permit requirements will supersede Town requirement's relative to allowable BUA per lot.

The street and sidewalk will be constructed of permeable pavement and permeable pavement is not recognized by NCDOT for public streets. Therefore, the developer has chosen to construct a private street rather than the previously approved public street. As noted in the attached letter from Mr. Cullipher, the applicants believe that the HOA for Maritime Woods would be the appropriate entity to maintain the permeable infrastructure. The required private street ROW width is 40-feet and the developer desires to maintain the previously approved 35-foot ROW width. Thus, a variance to the minimum width for private streets is requested and may be granted by the Board of Commissioners (BOC) after recommendation from Planning Board as per Section 66-4(a)(4)(b) of the Town Code. Additionally, street design standards (pavement type, base course, etc.) must meet NCDOT requirements unless varied by the Board of Commissioners after recommendation from Planning Board as per Section 66-4(a)(4)(b) of the Town Code. Therefore, the developer is requesting review of a revised preliminary plat and a recommendation from the Planning Board to the Board of Commissioners in order to:

- 1. Reduce the required ROW width from 40-feet to 35-feet; and,*
- 2. Allow for the street and sidewalk to be constructed of permeable pavement.*

Staff looks forward to discussing the revised preliminary plat with the Planning Board at its November 27, 2018 meeting. Please let me know if you have any questions regarding the foregoing information.

KBR

There was discussion about using permeable pavement vs. concrete. Mr. Chase Cullipher, engineer for the projects, said that by law, the HOA would be required to maintain the streets. Mr. Holman was concerned with keeping the integrity and structure of the pervious pavement, and general knowledge about upkeep/cleaning.

Mr. Cobin asked why swales were needed if the pavement was pervious. Mr. Cullipher answered that the intent was to capture the stormwater from land and to not overburden the road.

Mr. Holman asked about the loads that the pervious surface could hold and asked for a maintenance agreement to be written into the HOA code.

Mr. Cobin asked about reducing the right-of-way (ROW) to 35ft and Town Planner Reed answered that going to 35 ft would save trees. Mr. Holman asked if, from a planning perspective, going from a 40 ROW to a 35 ROW would be an issue. Town Planner Reed answered "no".

Mr. Browne questioned the Town Code regarding the ROW widths for private and public streets and believed that there was a clerical error in the Town code.

Mr. Cobin asked if there would be HOA requirements approved for the final plat. Mr. Reed answered that the town would not be able to approve/deny an HOA; it fell under the state permit. There was further discussion on the water systems, buffer zones, and the state's stormwater permit. Mr. Cobin asked if Mr. Cullipher would consider capturing the first 2 inches (and go by Town code). Town Planner Reed answered that it was designed to meet the state standard.

Mr. Holman suggested more observation wells and asked that all wetlands be marked on the plat.

Mr. Browne asked why there were no driveway culverts. Mr. Cullipher answered that the intent was to have pervious driveways and swales; the driveways would be permeable so culverts would not be needed.

The regulations on permeable pavement were discussed.

Mr. Browne asked if Phase I of the project included construction of the street and if the area indicated in Phase I would have all vegetation removed. Mr. Cullipher answered that the area indicated would be removed for grading and that the intent for Phase I was to build the road. Phase II would be implemented on a lot by lot basis. There was further discussion about heavy load construction vehicles and the structural integrity of the pervious pavement.

Chairman Payne asked if there were any more questions, there were not.

Chairman Payne asked for a motion(s) to recommend approval/disapproval to the Board of Commissioners:

- 1) Reduce the required ROW width from 40 feet to 35 feet. Ms. Werle made the motion to recommend, Mr. Holman made the second, with discussion. Mr. Browne felt that the Town code was written incorrectly, that public and private ROWs were the same size, and should have further review before voting. The motion carried 5-1 with Mr. Browne opposing.
- 2) Allow permeable pavement. The motion to recommend carried unanimously on a motion by Mr. Homan under the condition to look at materials and address load capacities. Ms. Werle made the second.

Mr. Holman made a motion to recommend approval of the preliminary plat with the following conditions or revisions to the plat with a second by Mr. Daniels. The motion carried 5-1 with Mr. Browne opposed. Those conditions are as follows:

1. Provide the wetland calls for "Wetland D" shown on the plat.
2. Provide information that the loading tolerance for permeable concrete will handle large vehicles such as fire apparatus and large trucks.
3. Provide additional signage along the private street regarding the permeable pavement and the allowable loading.
4. Request an additional monitoring well for the permeable concrete.
5. Provide documentation from the US Postal Service (USPS) that the location and design of the centralized mail kiosk is acceptable to the USPS
6. Provide documentation from the Maritime Woods Home Owners Association (HOA) has sufficient financial resources to maintain the streets and private infrastructure in perpetuity.

Major Landscape Review Process

Manager Kramer reported to the Board about changing the major landscape permit process to a staff – level review. He reviewed the function and purpose of a Planning Board and possible uses they could

endeavor as suggested by the UNC- School of Government. He said that he would like to see the Planning Board take more time with land use policy.

Town Planner Reed briefed the board on the review process. An excerpt from his memo is below:
Historically, all single-family home construction in Pine Knoll Shores has been required to obtain a Major Landscape Permit (MLP) as part of the building permit process. This process requires the Community Appearance Commission (CAC) to review each MLP application, visit the property, and make a recommendation to the Planning Board. The Planning Board then, visits the property, conducts a quasi-judicial evidentiary hearing and renders a decision on each MLP request. The requirement for all single-family homes to go through the MLP process is likely based on the legacy of not having a full-time planner as well as the previous form of government in the Town. Specifically, this legacy was that elected officials served as "department heads" and had legal responsibility for Town departments and town government. Additionally, there was no staff (Town Planner) to handle single-family home development which resulted in the authority being delegated to the Planning Board.

Recently, Town staff (Town Manager, Assistance Town Manager, Building Inspector and Town Planner) had a lengthy discussion about the MLP process as it pertains to single-family home construction and concluded the process could be improved by relying on staff (Town Planner and Building Inspector) to review single-family development requests and issue the required permits. This exclusion from the MLP process would only apply to new single-family construction, additions and swimming pools. While this is a departure from the "legacy approach", staff felt it would significantly improve the process by removing the need for review by the CAC and Planning Board and the lengthy time period it takes for these reviews. The MLP process would still be employed to review commercial and multi-family development as well as new subdivisions. The MLP process can literally take months to complete and by having staff perform review of single-family permit requests and compliance with the Town's development regulations, the process could be reduced to days or weeks.

Requiring a quasi-judicial hearing as a part of the building permitting process is unique to Pine Knoll Shores and staff is not aware of any other municipality in the State that requires such approvals before obtaining a building permit for single-family construction. Within Carteret County, all municipalities (Atlantic Beach, Emerald Isle, Cedar Point and Newport) and the County allow staff to issue permits for single-family construction. In addition, the following coastal communities also allow staff to issue such permits: Nags Head, Carolina Beach, North Topsail Beach (small homes, < 5,000 square feet and 8 bedrooms), Sunset Beach, Holden Beach, Duck, Carolina Beach, Manteo, Kitty Hawk, Kill Devil Hills and Bald Head Island.

This concept was presented to the Town's Planning Committee (Commissioners Brodman and Goetzinger) at a meeting on November 7 and the consensus was to forward the idea to the Board of Commissioners for consideration. The Board of Commissioners heard a presentation from Town staff on the topic at its' November 14 meeting. Following discussion, the Board voted unanimously to request that the Planning Board review the matter and provide a recommendation to the Board of Commissioners on changes to Chapter 74. Amendments to Chapter 74 must be referred to the Planning Board for review and a recommendation; and, in accordance with NC General Statutes (§160A-387), the Planning Board would have 30 days to make a recommendation to the Board of Commissioners on any proposed amendments.

Attached to this memorandum is a draft of potential changes to Chapter 74 that would accomplish the Board of Commissioner's policy change and have Town staff review and approve single-family home

construction. From an implementation standpoint, staff would use a postcard mailing to inform adjacent property owners of proposed development and invite them to review the plans with staff. In addition, staff has discussed this change with the incoming chair of the CAC, Steve Felch. The CAC chair or his designee would also participate in the review of the tree density plan prior to the issuance of any building permits. The Town Attorney has reviewed the attached draft changes to Chapter 74 and his suggested changes have been incorporated into the draft document.

Requested Action

Provide a recommendation to the Board of Commissioners on amendments to Chapter 74 that would remove single-family home construction from the Major Landscape Permit process.

Mr. Holman suggested that as a matter of policy, Planning Board members still have the option to review sites, along with CAC members. The current process was discussed. Mr. Holman made a motion to recommend to the Board of Commissioners that staff do the landscape review process on the condition that as a matter of policy, Planning Board members are still invited to review plans, along with CAC members. Mr. Pipkin made the second and the motion passed unanimously.

December Meeting Schedule

The Board scheduled their meeting for December 19 with the site visit starting at 9 a.m.

Reports

Planning

Town Planner Reed reported that the stormwater committee will be starting their meetings again.

Inspections

Mr. Taylor reported that for the ending month of October, there had been 28 permits and over \$2,000 in permitting fees. In terms of Florence recovery, most of the demolition work has been completed. He is anticipating several permits from multi-family buildings that were damaged during the storm. 115 Knollwood was working on a major landscape application and 132 Willow would be ready for the Dec meeting.

Board of Commissioners

There was nothing to report.

Unfinished Business

There was no unfinished business.

Announcements and Planning Board Members' Forum

Town Christmas Party December 14, 5-7.

Adjournment

The meeting adjourned unanimously on a motion by Member Holman with a second by Member Daniels at 6:45 p.m.

Sarah A. Williams
Town Clerk
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