



May 26, 2020
The Town of Pine Knoll Shores
Planning Board Monthly Meeting Agenda

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| I. Call to Order | Planning Chairman |
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II. Approval of the Agenda | |
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III. Consent Agenda | |
| a. January 28, 2020 Meeting Minutes | |
| b. March 24 2020 Meeting Minutes | |
|
IV. Public Comment | |
| <i>*(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.)</i> | |
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V. New Business | |
| a. Report from Stormwater Management
and Tree Preservation Subcommittee | Town Planner |
| b. Major Landscape Permit: Tennis Club | Town Planner |
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VI. Reports | |
| a. Planning | Town Planner |
| b. Inspections | |
| c. Board of Commissioners | Town Commissioner |
|
VII. Unfinished Business | |
| a. Annual Agenda | Planning Chairman |
|
VIII. Announcements and Planning Board Members' Forum | |
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IX. Adjournment | |

<p>Our vision is to provide a quality environment in which our citizens are safe and secure, where individual talents flourish, and everyone enjoys the natural resources of our area.</p> <p>It is the mission of the Town of Pine Knoll Shores to provide concerted and friendly means of promoting health, safety and social well-being; develop and implement plans for the continuous improvement of the town; and encourage the participation of residents in service to the Town and community.</p> <p style="text-align: right;">-Pine Knoll Shores Board of Commissioners</p>
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**The Town of Pine Knoll Shores, Board Room
Planning Board Regular Monthly Meeting
January 28, 2020 5 PM
Meeting Minutes**

In attendance for the meeting:

Planning Board Members present were, Paul Payne (Chairman), Bob Holman Ike Pipkin, Kathy Werle, Bud Daniels, Michelle Powers, George Greene, Doug Browne, and non-voting member Marsh Cobin

Non-voting member Bruce Beasley was absent.

Staff: Brian Kramer (Town Manager), Kevin Reed (Town Planner), and Sarah Williams (Town Clerk)

Call to Order and Pledge of Allegiance

Chairman Payne called the regularly scheduled monthly 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 Holman.

Consent Agenda

The consent agenda consisting of the minutes from October 22, 2019, November 14, 2019, and December 4, 2019 were approved unanimously on a motion by Member Greene with a second by Member Holman.

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.)*

Ted Lindblad, said he was happy with the suggested changes to the setback ordinance and that he hoped the Planning Board would approve them.

New Business

Report from Setback Committee

Town Planner Reed reviewed a memo outlining the changes that the setback subcommittee had made to the town code. The memo is included herein by reference and attached to these minutes.

Motion to recommend changes to the Board of Commissioners passed unanimously on a motion by Member Pipkin with a second by Member Browne.

Motion to pass consistency statement passed unanimously on a motion by Membe Powers with a second by Member Werle.

Reports

Planning & Inspections

Town Planner Reed advised the Board that the stormwater design for Maritime Woods had been approved by the state and that building permits could now be issued.

11 Building Permits

\$4,000+ in fees collected

12 Tree Removal permits

135 Inspections

He informed the Board that there 2 single family landscape permits in process and the CAC would be doing a site consultation visit.

Town Planner Reed discussed new legislation, NCGS 160-D and the implications for the town. He said the idea was to take enabling state legislation for cities and counties and bring them into one section.

Board of Commissioners

Commissioner Edwards reported that the offsite board retreat would be Feb 6-7 and that the Stormwater Phase II project was moving forward with design.

Annual Agenda

Adaptive Reuse/ Property Acquisition for Conservation Purpose Member Daniels reported that the committee was looking at property acquisition for conservation purposes.

Short Term Rentals: Member Greene wants to understand what the problems are so that the committee can decide what to look into. He discussed creating an information packet for rentals that was similar to the town welcome packet.

Adjournment

The meeting adjourned unanimously on a motion by Member Daniels with a second by Member Holman, with discussion on short term rentals, at 6:00 p.m.

Sarah G. Williams, Town Clerk

**PLANNING BOARD
TOWN OF PINE KNOLL SHORES BOARD ROOM
March 24, 2020
Meeting Minutes**

Call to Order and Pledge of Allegiance

Chairman Payne called the meeting to order at 5:00 p.m. via teleconference. Members present for the meeting were: Doug Browne, Ike Pipkin, Kathy Werle, Bob Holman, Michele Powers, and Marsh Cobin (non-resident homeowner) were present via go to meeting. Due to COVID-19 and social distancing suggestions, the meeting was not held in person.

Members Bruce Beasley (non-resident homeowner), George Greene, and Bud Daniels were absent.

Staff: Kevin Reed, Town Planner; and Sarah Williams, Town Clerk

Approval of the Agenda

The agenda was approved unanimously on a motion by Member Werle seconded Member Pipkin.

Public Comment

There was no public comment.

New Business

Pickleball Court at Country Club

Town Planner Reed, Dillon Rose, and JR Horton swore an oath to tell the truth.

Chairman Payne asked if any members of the Planning Board had any disclosures or conflicts of interest. They did not.

The board voted unanimously to go into a public hearing on a motion by Member Werle with a second by Member Powers.

Town Planner Reed discussed the project. He along with Dillon Rose and JR Horton (contractors/builders) answered questions. There was discussion about the project.

The board came out of the public hearing unanimously on a motion by Member Pipkin with a second by Member Werle.

The Major Landscape Permit passed unanimously on a motion by Member Werle with a second by Member Pipkin.

Adjournment

The meeting adjourned unanimously at 5:17 p.m. on a motion by Member Powers seconded by Member Werle.

Sarah G. Williams, Town Clerk



MEMORANDUM

TO: Chairman Payne and Members of the Planning Board

FROM: Kevin B. Reed, AICP, CZO, CFM, Town Planner/Code Enforcement Officer

DATE: May 26, 2020

SUBJECT: Discussion regarding potential changes to Chapter 74 of the Town Code as recommended by the Planning Board/Community Appearance Commission Subcommittee after its review of stormwater management and tree preservation standards

A subcommittee of the Planning Board and Community Appearance Commissioner (CAC) was formed in order to review and evaluate the Town's stormwater management and tree preservation requirements found in Chapter 74 of the Town Code. Prior to looking specifically at Chapter 74, the subcommittee conducted a couple of educational meeting with staff from the N.C. Coastal Federation. These meetings focused on gaining a better understanding the soil and drainage characteristics of the town as well as information on stormwater management techniques. Overall, the goal of the subcommittee was to continue to effectively manage stormwater (i.e. maintain the 2" standard) while enhancing the standards for tree preservation and protection.

The subcommittee completed its review and attached to this memorandum are proposed changes to Chapter 74 of the Town Code with text being added shown in an underlined format and text being deleted shown in a strikethrough format. The changes as proposed by the subcommittee would result in the following:

1. Stormwater management plans for single-family residential structures will still have to manage the first 2" of runoff from impervious surfaces; however, the plan will not have to be prepared and sealed by a certified engineer.
2. Stormwater management plans for non-single-family residential development will still have to manage the first 2" of runoff from impervious surfaces; however, the plan will not have to be sealed by an engineer. Instead, the plan will have be prepared and sealed by an individual with the proper certification by the State of North Carolina to prepare a state stormwater management plan.

3. The post-development tree density requirements will change from 1 tree per 1,000 square feet to 2 trees per 1,000 square feet.
4. Single-family impervious coverage limits will be reduced from 35% to 25%. The flood prone areas zoned for single-family development would remain at 25%.
5. The size of replacement trees will be revised to require the planting of a tree that is a minimum of 1.5" in diameter rather than the current standard of requiring a 25-gallon tree.

The Planning Board will recall that changes to Chapter 74 require review and recommendation by the Planning Board as well as adoption of a statement indicating consistency or inconsistency with the Town's CAMA Land Use Plan. The Planning Board is asked at this time to discuss the relevant changes in detail and provide guidance to staff on any revisions. Staff looks forward to discussing this matter with the Board at its May 26, 2020 meeting.

KBR

Attachments

Proposed Amendments to Chapter 74 of the Town Code and the following relevant sections:

Sec. 74-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~25 gallon tree means a tree of such size that its root system meets the recommended standards for a 25 gallon container as specified in the 2014 edition of the "American Standard for Nursery Stock" published by the American Horticulture Industry Association.~~

Measurement height: The point on a tree for measuring diameter to determine if a tree is a regulated tree. For trees on non-oceanfront properties the measurement height is DBH; for trees on ocean-front properties the measurement height is 3.5 feet above natural grade; or, regardless of location, if a tree has a characteristic specified in the definition of alternate height measurement, the measurement height for that tree is determined as specified in the definition.

Sec. 74-62.1. - Consequences of failure to complete work.

If the holder of a landscape permit issued pursuant to subsection 74-59(2) and/or other provisions of the Town Code, shall in whole or in part disturb his land or remove vegetation pursuant to the landscape permit but thereafter fail to fully complete the work authorized by the building permit issued in conjunction with the landscape permit, he shall be subject to the following enforcement action, notwithstanding the provisions of section 74-28:

- (1) For willful failure to complete the work authorized by the building permit the permit holder is subject to:
 - a. All penalties and enforcement actions provided in section 1-12 of the Pine Knoll Shores Town Code; and
 - b. For each regulated tree removed, a civil penalty of up to \$5,000.00 assessed according to subsection 1-12(a) of the Town Code. In addition to this amount, which shall be payable to the town in the nature of a debt, the violator shall pay all court costs, and all reasonable attorney's fees required to produce a civil judgment to enforce this provision, this provision being enacted in accordance with the provisions of G.S. 160A-175(b).
- (2) Regardless of whether failure to complete the work authorized by the building permit was willful, the holder of the permit shall fully restore the property, including all vegetation and topography, to its condition prior to performing the work authorized by the landscape permit within 60 days of notice from the building inspector. If the permit holder fails to perform such restoration, he will be in violation of this section and will be subject to all of the civil penalties and enforcement actions under section 1-12 of the Town Code. Further, if the holder of the permit cannot practically replace trees removed pursuant to a landscape permit because of the size of the trees, in lieu of complete restoration of the trees he is permitted to mitigate the loss as follows:
 - a. For each regulated tree he shall replace the same with a tree from the list of trees of special concern set forth in section 74-64 of **1.5" trees in diameter 25 gallons** or an equivalent on the oceanfront as specifically approved by the community appearance

commission. The property owner shall be responsible for maintaining all replacement trees required by this section in a healthy condition for a period of two years from planting. Any dead, unhealthy or missing trees shall be replaced and replacement shall occur at the earliest suitable planting season as determined by the town; and

- b. Pay to the town a civil penalty, and related costs, for each regulated tree in an amount between \$1,000.00 and \$5,000.00 calculated as follows: \$1,000.00 for each inch, or part thereof, of the diameter of the trunk of the original tree up to a maximum of \$5,000.00. In addition to this amount, which shall be payable to the town in the nature of a debt, the permit holder shall pay all court costs, and all reasonable attorney's fees required to produce a civil judgment to enforce this provision, this provision being enacted in accordance with the provisions of G.S. 160A-175(b).

Sec. 74-64. - Tree preservation, protection and replacement.

- (a) *Purpose.* The purpose of this section is to promote the preservation, maintenance, and planting of trees, plants and shrubs on private property to: Safeguard and enhance real estate values; reduce noise, glare, and heat; conserve energy; buffer noise and wind; mitigate stormwater runoff; protect properties from erosion; provide habitats for animals; and encourage the most appropriate use of land throughout the town. Compliance of landscape plans with tree preservation and protection standards is required before any permit will be issued. Before a certificate of occupancy will be issued, all landscaping must be completed in accordance with the approved landscape plan. Exceptions may be granted in accordance with the provisions of subsection 74-64(d)(8). Violations of any of the provisions of this section are subject to the penalties and remedies listed in section 74-28.
- (b) Lot owners shall strive to assure that any proposed new construction, development or redevelopment will make effective use of existing terrain and environment, preserve to the extent possible the maritime forest and shrubbery indigenous to the town and employ exterior designs and materials that harmonize well with the natural environment.
- (c) *Designation and protection of native plants and plants of special concern.* It shall be the policy of the town to protect to the maximum extent feasible those trees and shrubs native to the maritime forest in which the town is located. All structures, walls, decks, drives or other property improvements shall be designed in such a way so as to minimize the destruction of native plants and plants of special concern, and to preserve and to protect those remaining as much as practicable. Where landscaping is required by this division 2 Permits, it shall be accomplished as much as feasible through utilizing the existing topography and environment of the property and the use of those plants which naturally occur within this area or plants of special concern. The town hereby designates the following plants as plants of special concern which are listed in the pamphlet "Building and Landscaping in Pine Knoll Shores", available at Town Hall:

American Beach Grass	Laurel Oak
American Holly	Live Oak
American Olive	Loblolly Pine

Bayberry	Magnolia
Black Cherry	Mimosa
Black Gum	Northern Bayberry
Black Locust	Panigrass (Bitter Panicum)
Cherry Laurel	Purpleleaf Plum
Chickasaw Plum	Smilax
Chinese Holly	Red Maple
Common Crepe myrtle	Sea Oats
Crabapple	Southern Waxmyrtle
Dogwood	Sweet Gum
Eastern Red Cedar	Virginia Creeper
Hickory	Yaupon Holly
Ironwood	Water Oak
Japanese Black Pine	White Poplar
Japanese Maple	Willow Oak

(d) *Tree preservation standards.*

- (1) If a property has been timbered or clear-cut, it cannot be subdivided or redeveloped for three years after removal of the trees to prevent subversion of the intent of the ordinance from which this section derives, as permitted by G.S. 160A-458.5(c)(1).
- (2) On each property for which a major landscape plan or single-family landscape plan is required, the landscape plan must specify that new and existing trees that meet the standard of regulated trees that are anticipated to survive the development process, but do not, must be replaced by new 1.5" diameter 25-gallon trees at measurement height of special concern or an equivalent as specifically approved by the community appearance commission. The community appearance commission shall review and determine the additional trees, if any, needed. The property owner shall be responsible for maintaining all replacement trees required by this section in a healthy condition for a period of two years from planting. Any dead, unhealthy or missing trees shall be replaced and replacement shall occur at the earliest suitable planting season as determined by the town.
- (3) On each property for which a tree plan is required by this section, the tree plan must allow for a minimum tree density standard as follows: For each 1,000 square feet of pervious surface, excluding septic field, one tree two trees, six inches in diameter or greater measured at diameter breast height or 3.5 feet above natural grade, as applicable. New and/or existing trees that do not survive the development process must be replaced

by new 1.5" diameter 25-gallon trees at measurement height or an equivalent as specifically approved by the community appearance commission so that the minimum standard tree density is maintained. The property owner shall be responsible for maintaining all replacement trees required by this section in a healthy condition for a period of two years from planting. Any dead, unhealthy or missing trees shall be replaced and replacement shall occur at the earliest suitable planting season as determined by the town. Palm trees may not be used to meet the minimum density requirement. In the event that an oceanfront property cannot meet the required tree density based on six inch trees, the community appearance commission may recommend that the tree density be considered based on three inch trees.

- (4) Landscape plans for properties subject to the ordinance from which this section derives shall show the existing trees to be removed for development of the property. No regulated tree shall be destroyed outside the clearing limits indicated on the major landscape permit or single-family landscape permit request unless written approval has been granted by the zoning administrator, or his authorized agent during the landscape plan and final plat approval process.
 - (5) Planting of trees native to eastern North Carolina and/or adaptable to the coastal conditions and climate of Pine Knoll Shores is strongly encouraged. As a resource for development of landscape plans, the town shall maintain and make available a list of desirable trees based on mature height.
 - (6) Property owners shall preserve all existing heritage and specimen trees unless doing so presents an economic hardship that denies property owners reasonable use of their property.
 - (7) The planting of invasive and noxious plants, including, but not limited to *Vitex rotundifolia*, is prohibited. See section 38-12.
 - (8) Requests for delay in completing the plantings called for in an approved major landscape plan and single-family landscape plan may be granted if such delays are caused by poor weather conditions for planting, delay in obtaining plant material or by other circumstances beyond the control of the owner or developer. Requests shall be submitted in writing to the town. Certificate of occupancy shall be issued upon approval of a request for planting delay. To receive an approval for this type of delay, the property owner shall post a bond or produce a certified check or an irrevocable letter of credit, any of which shall be 1½ times the estimated cost of the materials and planting. In any case, planting shall be completed within nine months from the approval of a request for a planting delay at which time the site will be inspected by the zoning administrator, or his authorized agent and community appearance commission.
- (e) *Tree protection plans and standards.*
- (1) Tree protection plans shall be required for all applications for landscape permits.
 - (2) All major landscape permit and single-family landscape permit applications shall show heritage trees, specimen trees, and existing trees being protected.
 - (3) Adequate measures shall be taken to protect trees and their root systems. All trees to be preserved or protected and all newly planted trees shall be surrounded by protective barriers to safeguard tree roots and create the protected root zone. The minimum

standard for barriers shall be fencing three feet high, clearly marked with tape. All construction activities: Excavating, trenching, construction storage and dumping, driving or parking of any vehicles and equipment, any change in grade due to excavation, soil placement or construction materials, or placement of any debris on tree roots shall be prohibited within these protected root zones. The zoning administrator, or his authorized agent will work with construction personnel to determine where construction equipment and materials may be placed on the lot. Barriers shall remain in place until all work is completed.

- (4) Tunneling shall be the preferred method of installing utilities if utilities cannot be routed around the tree and outside the protected root zone. Tunneling shall be offset to one side of the trunk and at a depth of greater than one foot. Based on guidelines that a tree requires a root ball of at least one foot for each one inch of trunk diameter, the area protected from tunneling should be calculated to determine the circumference area for tunneling.
- (f) *Replacement of damaged shrubs and trees; time limit; violation.*
- (1) The zoning administrator, or his authorized agent along with a person(s) from the community appearance commission are authorized to inspect the sites subject to the ordinance from which this section derives to determine compliance. Members of the community appearance commission may conduct investigations deemed necessary to carry out the duties described herein.
 - (2) Any sand, soil, dirt or earth which has been removed, relocated, graded, excavated, added to, filled or disturbed in violation of this chapter and any trees, shrubbery, grass or other vegetation which has been killed, damaged, destroyed or removed in violation of this chapter shall be restored or replaced within 60 days of notice from the zoning administrator, or his authorized agent. Each day after the 60-day period that the violator fails to perform such restoration or replacement shall constitute a new and separate violation. As required by provisions of this subdivision, any such replacement shall, where feasible, be accomplished through the use of plants which naturally occur within this area, with emphasis upon those plants of special concern.
 - (3) Injury or destruction of trees protected by this section that result in total loss of a tree shall require replacement within six months of the notice of violation. Injuries shall be assessed by a professional arborist who will determine whether the tree can be treated. If untreatable, replacement of the injured tree(s) shall occur within six months at a ratio of one-to-one. The size of the replacement tree must be at least **1.5" diameter at measurement height 25 gallons or an equivalent** as specifically approved by the community appearance commission. Replacement trees must be approved by the community appearance commission. The property owner shall be responsible for maintaining all replacement trees required by this section in a healthy condition for a period of two years from planting. Any dead, unhealthy or missing trees shall be replaced and replacement shall occur at the earliest suitable planting season as determined by the town.
 - (4) If any trees in the property owner's landscape plan are designated as not being disturbed but are severely damaged during construction or should die within 24 months after project completion, the developer or property owner shall replace the trees at the

owner's expense. Replacement shall occur at a ratio of one-to-one. The size of the replacement trees must be at least 1.5" diameter at measurement height 25 gallons or an equivalent as specifically approved by the community appearance commission. Replacement trees must be approved by the community appearance commission. The property owner shall be responsible for maintaining all replacement trees required by this section in a healthy condition for a period of two years from planting. Any dead, unhealthy or missing trees shall be replaced and replacement shall occur at the earliest suitable planting season as determined by the town.

- (5) In addition to the above penalties and remedies, the town may enforce any of the penalties listed in section 74-28, as applicable.

Sec. 74-87. - Stormwater plan: Non-single-family residential zoning districts and subdivisions.

For non-single-family residential zoning districts and subdivisions: Unless a waiver is granted in accordance with subsection (3) of this section or upon the granting of a variance in accordance with subsection (4) of this section, all applications for a major landscape permit or a subdivision must be accompanied by a stormwater management plan. The stormwater management plan must provide for the infiltration of the first two inches of rainfall or less in a 24-hour period from all impervious surfaces on-site. It is not necessary to control runoff from the liquid surface of swimming pools. Flow from gutters and downspouts shall may be diverted to dry wells or porous drainpipes in rock envelope. For structures without gutters and downspouts, gravel infiltration beds under roof overhangs shall may be provided. The stormwater management plan shall be prepared by a North Carolina licensed professional authorized under N.C. Generals Stattues to prepare stormwater plans Typical designs of appropriate systems are provided for guidance in the Manual of Stormwater Management Practices as reflection reflected in section 74-219.

- (1) *Application requirements.* The stormwater management plan shall contain the name, address and telephone number of the owner and the developer. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major waterbodies, adjoining roads, or subdivisions shall be clearly identified by a map.
- (2) *Elements.* It is the responsibility of an applicant to include in the stormwater management plan sufficient information for the town or its agents to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on area surface waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts. The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions and explanations and citations to supporting references, as appropriate, to communicate the information required by this section.

All stormwater management plans must contain the following elements:

- a. The existing environmental and hydrologic conditions of the site and of receiving waters and wetlands shall be described in detail, including the following:
 1. The direction, flow rate and volume of stormwater runoff under existing conditions and, to the extent practicable, predevelopment conditions;

2. The location of areas on the site where stormwater collects or percolates into the ground including the locations of any interdunal troughs;
 3. A description of all watercourses, waterbodies and wetlands on or adjacent to the site or into which stormwater flows. Information regarding their water quality and the current water quality classification, if any, given them by the state division of environmental management (NCDEM) shall be included;
 4. Groundwater levels, including seasonal fluctuations;
 5. Locations of floodplains;
 6. Vegetation;
 7. Topography;
 8. Soils, as delineated and described in the Soil Conservation Service Publication, Soil Survey of Carteret County, North Carolina or Soil Survey of the North Carolina Outer Banks.
- b. Proposed alterations of the site shall be described in detail, including:
1. Changes in topography;
 2. Areas where vegetation will be cleared or otherwise killed;
 3. Areas that will be covered with an impervious surface and a description of the surfacing material;
 4. The size and location of any buildings or other structures.
- c. Predicted impacts of the proposed development on existing conditions shall be described in detail, including:
1. Changes in water quality;
 2. Changes in groundwater levels;
 3. Changes in the incidence and duration of flooding on the site and upstream and downstream from it;
 4. Impacts on interdunal troughs, if any;
 5. Impacts on wetlands, if any;
 6. Impacts on vegetation.
- d. All components of the drainage system and any measures for the detention, retention or infiltration of water or for the protection of water quality shall be described in detail, including:
1. The channel, direction, flow rate, volume and quality of stormwater that will be conveyed from the site with a comparison to existing conditions and, to the extent practicable, predevelopment/redevelopment conditions;
 2. Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of water quality in those areas;

3. Areas of the site to be used or reserved for percolation, including a prediction of the impact on groundwater quality;
 4. A plan for the control of erosion and sedimentation, location of control measures, the stage of development/redevelopment which describes in detail the type and at which time they will be put into place or used, and provisions for their maintenance;
 5. Any other information which the developer or the town or its agents believes is reasonably necessary for an evaluation of the development/redevelopment proposal for compliance with this chapter.
- e. A statement from a North Carolina licensed professional authorized to prepare stormwater plans ~~certified engineer~~ that: (i) the stormwater management system, if constructed as designed, will retain and infiltrate the requisite volume of stormwater runoff; and (ii) any grade elevation changes or construction on the site will neither increase the rate of flow, nor the volume of water discharged onto adjacent properties.

(3) *Waivers.*

- a. A waiver of the stormwater management plan requirement may be considered by submitting an application to the planning board on forms supplied by the town. The application shall contain:
 1. The name, address and telephone number of the developer and owner;
 2. A description and a drawing of the proposed development/redevelopment;
 3. The location of the development/redevelopment;
 4. Any other information requested by the town that is reasonably necessary to evaluate the proposed development.
- b. The planning board may grant a waiver if the application demonstrates the development/redevelopment is not likely to:
 1. Increase the rate or volume of surface water runoff;
 2. Have an adverse impact on an interdunal trough, wetland, watercourse or waterbody;
 3. Contribute to the degradation of water quality.
- c. The following types of development shall not be eligible to receive a waiver, unless they are subject to state stormwater permitting requirements and therefore meet the waiver allowance in subsection (e):
 1. Shopping center and office/professional;
 2. Commercial facilities;
- d. Within 30 working days after submission of the completed waiver application, the planning board shall notify the applicant whether the waiver has been approved or denied and whether a stormwater management plan must be submitted by the applicant. If the planning board has not rendered a decision within 30 days after

plan submission, it shall inform the applicant of the status of the review process and the anticipated completion date.

- e. Any project which is subject to state stormwater permitting, shall be granted a waiver from the requirements of this section. However, the town would prefer that these projects contain and infiltrate the first two inches of rainfall in a 24-hour period from any proposed development.
- (4) *Variances.* The board of adjustment may grant a written variance from any requirement of this chapter in accordance with the criteria listed below:
- a. There are special circumstances applicable to the subject property of its intended use;
 - b. The granting of the variance will not:
 - 1. Increase the rate or volume of surface water runoff;
 - 2. Have an adverse impact on an interdunal trough, wetland, watercourse or waterbody;
 - 3. Contribute to the degradation of water quality;
 - 4. Otherwise impair attainment of the objectives of this section:
 - (i) Encourage productive and enjoyable harmony between humanity and nature;
 - (ii) Protect, restore and maintain the chemical, physical and biological integrity of the waters of Bogue Sound, the canal system within the corporate limits and the Atlantic Ocean;
 - (iii) Prevent harm to the community by activities which adversely affect water resources;
 - (iv) Encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
 - (v) Encourage the protection of natural systems and the use of them in ways which do not impair their beneficial functioning;
 - (vi) Encourage the use of drainage systems which minimize the consumption of electrical energy or petroleum fuels to move water, remove pollutants, or maintain the systems;
 - (vii) Minimize the transport of pollutants to area surface waters;
 - (viii) Maintain or restore groundwater levels;
 - (ix) Protect, maintain or restore natural salinity levels in estuarine areas;
 - (x) Minimize erosion and sedimentation;
 - (xi) Prevent damage to wetlands and, insofar as possible, to the local natural recharge areas known as interdunal troughs;
 - (xii) Prevent damage from flooding, while recognizing that natural fluctuations in water level are beneficial;

- (xiii) Protect, restore and maintain the habitat of fish and wildlife;
 - (xiv) Ensure the attainment of these objectives by requiring the approval and implementation of stormwater management plans for all activities which may have a significant adverse impact upon community waters;
 - (xv) Prevent or reverse salt water intrusion.
- c. There are special circumstances applicable to the subject property of its intended use. A written request for variance shall be provided and shall state specific variances sought and reasons for their granting.
- d. A variance from the terms of this chapter shall not be granted by the board of adjustment unless, and until, it shall make a finding:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
 - 2. That literal interpretation of the provisions would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter;
 - 3. That the special conditions and circumstances do not result from the actions of the applicant;
 - 4. That the hardship is of a physical nature and not economic;
 - 5. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land, structures or buildings in the same district.
- e. Additionally, the granting of the variance will not:
 - 1. Increase the rate or volume of surface water runoff;
 - 2. Have an adverse impact on an interdunal trough, basins, wetland, watercourse or waterbody;
 - 3. Contribute to the degradation of water quality;
 - 4. Otherwise impair attainment of the objectives of this chapter.
- f. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter.
- (5) *Exemptions.* The following development activities are exempt from stormwater management plan requirements:
 - a. Any maintenance, alteration, use or improvement to an existing structure not changing or affecting quality, rate, volume or location of surface water discharge.
 - b. Gardening and landscaping in connection with a single-family dwelling.
- (6) *Decisions.* Within 30 working days after submission of the completed stormwater management plan, the planning board shall approve, with or without specified conditions or modifications, or reject the plan, shall file such decision with the town

clerk, and shall notify the applicant accordingly. If the plan is rejected or modified, the planning board shall state its reasons. While it is not customary for the planning board or town officials to actually design an acceptable project for the applicant, the board and town officials are encouraged to do all they can to work with the applicant to achieve an acceptable project plan in harmony with this chapter. Projects requiring formal planning board and town board review shall not be subject to the 30-day requirement. Approval of stormwater management plans for these projects shall be determined in conjunction with the planning board's and town board's formal review process. The stormwater management plan shall not be approved unless it clearly indicates that the proposed development will meet the performance standards described in section 74-216 and the design standards described in section 74-217, except where a variance has been granted pursuant to subsection 74-87(4), or where off-site management is approved pursuant to section 74-218.

- (7) *Inspections.* No stormwater management plan may be approved without adequate provision for inspection of the property before development/redevelopment activity commences. The applicant shall arrange with the town's chief code enforcement official or his designated agent for scheduling the following inspections:
- a. *Initial inspection.* Prior to approval of the stormwater management plan;
 - b. *Bury inspection.* Prior to burial of any underground drainage structure;
 - c. *Erosion control inspection.* As necessary to ensure effective control of erosion and sedimentation;
 - d. *Finish inspection.* When all work including installation of all drainage facilities has been completed.

The chief code enforcement official or his designated agent shall inspect the work and shall either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved stormwater management plan. Any portion of the work which does not comply shall be promptly corrected by the applicant or the applicant will be subject to the penalty provisions of section 74-28.

- (8) *Appeal.* Any person aggrieved by the action of the planning board or of any official charged with the enforcement of this chapter, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly file application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the chapter in regard to a specific application shall have the right to appeal the action to the town board of adjustment. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, shall state clearly the grounds on which the appeal is based, and shall be processed in the manner prescribed for hearing administrative appeals under local and state statutes. Any person aggrieved by the action of the board of adjustment may appeal to the superior court pursuant to the provisions of G.S. 160A-388.

Sec. 74-88. - Stormwater management plan: Single-family residential.

For single-family residential zoning districts: All applications for a major landscape permit and single-family landscape permit must be accompanied by a stormwater management plan. The stormwater management plan must provide for the infiltration of the first two inches of rainfall or less in a 24-hour period from all impervious surfaces on-site. It is not necessary to control runoff from swimming pools. Flow from gutters and downspouts ~~shall~~ may be diverted to dry wells or porous drainpipes in rock envelope. For structures without gutters and downspouts, gravel infiltration beds, or other approved methods under roof overhangs ~~shall~~ may be provided. Typical designs of appropriate systems are provided for guidance in the ~~M~~anual of Sstormwater Mmanagement Ppractices as ~~reflection~~ reflected in section 74-219.

- (1) *Application requirements.* The stormwater management plan shall contain the name, address and telephone number of the owner and the developer. In addition, the legal description of the property shall be provided, and its location with reference to such landmarks as major waterbodies, adjoining roads or subdivisions shall be clearly identified by a map.
- (2) *Elements.* It is the responsibility of an applicant to include in the stormwater management plan sufficient information for the town or its agents to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on area surface waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts.

All stormwater management plans must contain the following elements:

- a. The existing environmental and hydrologic conditions of the site shall be described in detail, including the following:
 1. The location of areas on the site where stormwater collects or percolates into the ground including the locations of any interdunal troughs;
 2. Seasonal water table levels;
 3. Locations of floodplains;
 4. Topography.
- b. Proposed alterations of the site shall be described in detail, including:
 1. Changes in topography;
 2. Areas where vegetation will be cleared or otherwise killed;
 3. Areas that will be covered with an impervious surface and a description of the surfacing material;
 4. The size and location of any buildings or other structures.
- c. All components of the drainage system and any measures for the detention, retention or infiltration of water or for the protection of water quality shall be described in detail, including:
 1. Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of water quality in those areas;
 2. Areas of the site to be used or reserved for percolation;

3. A plan for the control of erosion and sedimentation, location of control measures, the stage of development/redevelopment which describes in detail the type and at which time they will be put into place or used, and provisions for their maintenance;
 4. Any other information which the developer or the town or its agents believes is reasonably necessary for an evaluation of the development/redevelopment proposal for compliance with this chapter.
- d. A statement from ~~a certified engineer~~ the person, design professional or firm preparing the plan that the stormwater management system, if constructed as designed, will retain and infiltrate the requisite volume of stormwater runoff and any grade elevation changes or construction on the site will neither increase the rate of flow, nor the volume of water discharged on to adjacent properties.

(3) *Waivers.*

- a. A waiver of the stormwater management plan requirement may be considered by submitting an application to the planning board on forms supplied by the town. The application shall contain:
 1. The name, address and telephone number of the developer and owner;
 2. A description and a drawing of the proposed development/redevelopment;
 3. The location of the development/redevelopment;
 4. Any other information requested by the town that is reasonably necessary to evaluate the proposed development.
- b. The planning board may grant a waiver if the application demonstrates the development/redevelopment is not likely to:
 1. Increase the rate or volume of surface water runoff;
 2. Have an adverse impact on an interdunal trough, wetland, watercourse or waterbody;
 3. Contribute to the degradation of water quality.
- c. Within 30 working days after submission of the completed waiver application, the planning board shall notify the applicant whether the waiver has been approved or denied and whether a stormwater management plan must be submitted by the applicant. If the planning board has not rendered a decision within 30 days after plan submission, it shall inform the applicant of the status of the review process and the anticipated completion date.

(4) *Variances.* The board of adjustment may grant a written variance from any requirement of this chapter in accordance with the criteria listed below:

- a. There are special circumstances applicable to the subject property of its intended use;
- b. The granting of the variance will not:
 1. Increase the rate or volume of surface water runoff;

2. Have an adverse impact on an interdunal trough, wetland, watercourse or waterbody;
3. Contribute to the degradation of water quality;
4. Otherwise impair attainment of the objectives of this section:
 - (i) Encourage productive and enjoyable harmony between humanity and nature;
 - (ii) Protect, restore and maintain the chemical, physical and biological integrity of the waters of Bogue Sound, the canal system within the corporate limits and the Atlantic Ocean;
 - (iii) Prevent harm to the community by activities which adversely affect water resources;
 - (iv) Encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
 - (v) Encourage the protection of natural systems and the use of them in ways which do not impair their beneficial functioning;
 - (vi) Encourage the use of drainage systems which minimize the consumption of electrical energy or petroleum fuels to move water, remove pollutants, or maintain the systems;
 - (vii) Minimize the transport of pollutants to area surface waters;
 - (viii) Maintain or restore groundwater levels;
 - (ix) Protect, maintain or restore natural salinity levels in estuarine areas;
 - (x) Minimize erosion and sedimentation;
 - (xi) Prevent damage to wetlands and, insofar as possible, to the local natural recharge areas known as interdunal troughs;
 - (xii) Prevent damage from flooding, while recognizing that natural fluctuations in water level are beneficial;
 - (xiii) Protect, restore and maintain the habitat of fish and wildlife;
 - (xiv) Ensure the attainment of these objectives by requiring the approval and implementation of stormwater management plans for all activities which may have a significant adverse impact upon community waters;
 - (xv) Prevent or reverse salt water intrusion.
- c. There are special circumstances applicable to the subject property of its intended use. A written request for variance shall be provided and shall state specific variances sought and reasons for their granting.
- d. A variance from the terms of this chapter shall not be granted by the board of adjustment unless, and until, it shall make a finding:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
 2. That literal interpretation of the provisions would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter;
 3. That the special conditions and circumstances do not result from the actions of the applicant;
 4. That the hardship is of a physical nature and not economic;
 5. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land, structures or buildings in the same district.
- e. Additionally, the granting of the variance will not:
1. Increase the rate or volume of surface water runoff;
 2. Have an adverse impact on an interdunal trough, basins, wetland, watercourse or waterbody;
 3. Contribute to the degradation of water quality;
 4. Otherwise impair attainment of the objectives of this chapter.
- f. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter.
- (5) *Exemptions.* The following development activities are exempt from stormwater management plan requirements:
- a. Any maintenance, alteration, use or improvement to an existing structure not changing or affecting quality, rate, volume or location of surface water discharge.
 - b. Gardening and landscaping in connection with a single-family dwelling.
- (6) *Decisions.* Within 30 working days after submission of the completed stormwater management plan, the planning board shall approve, with or without specified conditions or modifications, or reject the plan, shall file such decision with the town clerk, and shall notify the applicant accordingly. If the plan is rejected or modified, the planning board shall state its reasons. While it is not customary for the planning board or town officials to actually design an acceptable project for the applicant, the board and town officials are encouraged to do all they can to work with the applicant to achieve an acceptable project plan in harmony with this chapter. Projects requiring formal planning board and town board review shall not be subject to the 30-day requirement. Approval of stormwater management plans for these projects shall be determined in conjunction with the planning board's and town board's formal review process. The stormwater management plan shall not be approved unless it clearly indicates that the proposed development will meet the performance standards described in section 74-216 and the design standards described in section 74-217, except where a variance has been granted

pursuant to subsection 74-88(4), or where off-site management is approved pursuant to section 74-218.

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The chief code enforcement official or his designated agent shall inspect the work and shall either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved stormwater management plan. Any portion of the work which does not comply shall be promptly corrected by the applicant or the applicant will be subject to the penalty provisions of section 74-28.

- (8) *Appeal.* Any person aggrieved by the action of the planning board or of any official charged with the enforcement of this chapter, as the result of the disapproval of a properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly file application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce the chapter in regard to a specific application shall have the right to appeal the action to the town board of adjustment. The appeal shall be filed in writing within 30 days of the date of official transmittal of the final decision or determination to the applicant, shall state clearly the grounds on which the appeal is based, and shall be processed in the manner prescribed for hearing administrative appeals under local and state statutes. Any person aggrieved by the action of the board of adjustment may appeal to the Superior Court pursuant to the provisions of G.S. 160A-388.

Sec. 74-215. - Stormwater management.

Flow from gutters and downspouts ~~shall~~ may be diverted to dry wells or porous drainpipes in rock envelope. For structures without gutters and downspouts, gravel infiltration beds under roof overhangs ~~shall~~ may be provided. Typical designs of appropriate systems are provided for guidance in the Manual of Stormwater Management Practices as reflected in section 74-219.

Sec. 74-289. - Maximum lot coverage.

Impervious coverage, including, but not limited to, roofs, driveways, paved walkways and paved patios, shall not:

- (1) Exceed ~~35~~ 25 percent of the total land area for each lot within residential property districts R-1, R-2, R-3 and R-4; or

- (2) Exceed 25 percent of the total land area for each lot the area designated as the flood-prone area in subsection 30-26(i) and any other lot in residential property districts R-1, R-2, R-3, and R-4 with a seasonal high water table of 24 inches or less to grade.



MEMORANDUM

TO: Chairman Payne and Planning Board Members

FROM: Kevin B. Reed, AICP, CZO, CFM, Town Planner/Code Enforcement Officer

DATE: May 26, 2020

SUBJECT: Consider a request from the Crystal Coast Country Club for a Major Landscape Permit for proposed new tennis center, additional sidewalk and temporary office structure in the vicinity of the existing tennis center

The Town has received a request from the Crystal Coast Country Club for a Major Landscape Permit (MLP) to construct a new tennis center, additional sidewalk area and a temporary office building in the vicinity of the existing tennis center. The proposed development would be located immediately east of the existing tennis courts. A total of 17 trees would be removed for the proposed development and stormwater from the new impervious surfaces would be retained on site via a bio swale. An additional 2,677 square feet of impervious surface would be added to the +/- 96 acre tract. The additional impervious surface will result in a post development impervious coverage total of 6% for the entire tract which is under the 12% maximum allowable coverage. The stormwater generated from the additional impervious surface will require 447 cubic feet of storage capacity and the bio swale contains approximately 7,200 cubic feet of storage capacity according to the engineered stormwater plan. Attached to this memorandum are site and stormwater plans for the project.

A request for a MLP requires review by the Community Appearance Commission (CAC). The CAC reviewed the project at its meeting held on May 22. Following its review, the CAC recommended to the Planning Board that the MLP be approved. The Planning Board will need to conduct the required quasi-judicial hearing on the request and reach the following findings of facts:

- (1) A stormwater plan has been submitted that meets the standards of this chapter; drainage patterns resulting from development will not produce runoff that is adverse to adjacent properties, to include town streets;
- (2) Vegetation will not be unduly destroyed;
- (3) Erosion will not result;

- (4) The vista from other properties will not be unduly blocked by grade changes that may permit a taller structure to be constructed than on natural grade;
- (5) That the resulting height of structures that will be permitted on the lot or tract as a result of grade changes will be compatible with the neighborhood; and
- (6) All requirements and standards of Chapter 74 have been met.

I look forward to discussing this request with the Planning Board at its May 26, 2020 meeting.

KBR

Attachments