

TOWN OF TOPSAIL BEACH
Board of Commissioners
Special Meeting



Staff Report

SUMMARY

Meeting Date: July 24, 2023
To: **Topsail Beach Board of Commissioners**
Prepared By: Stephanie Moore, Town Planner
Subject: Proposed Conditions and Generalized Comments for Discussion

Please find draft discussion points for proposed conditions and generalized comments below compiled from Town Board of Commissioners. The following items are provided as part of the ongoing discussion regarding the proposed conditional zoning request. Each of the items below have been categorized and are in no particular prioritized order.

Utilities

1. All power lines, water tanks, etc. underground
2. Unless there are regulations changes - no water from Town

Environmental

1. Assurance through proposed conservation easement that invasive species like Vitex on all 150 acres will be removed.
2. Only use native species for landscaping.
3. How will sand movement be handled as they build? We normally have area limits on what is moved and no sand leaves site.
4. Timely removal of any future debris, at owner's expense, that is deposited in land owned by the applicant by storms, floods, including debris of unknown origin. This includes conservation-easement land.

Outside Agencies

1. Coastal Engineer with Architect to evaluate the building sites as related to overall planning and impact on the established dune system. Is this the best building area?
2. Architectural study to provide guidance in the preliminary style of the overall compound, the flow of traffic, visual compatibility, true height, and impact (balloon test for visual impact from

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beach/housing), decking connectivity, under house uses and required grading, lighting, roof colors, etc.

3. Soil Scientist evaluation of septic area, anticipated field sizes and ground water impact and effluent migration.
4. Hydrogeologist evaluation of potable water well(s). Depths, required yield, above ground tanks, etc.
5. Engineering study regarding a well-supplied fire sprinkler system. Well size, volume and need for an elevated tank (size and height).
6. An Environmental impact study related to the natural systems and wildlife. All NCDEQ-DCM regulations and permitting requirements will apply.

Land Development

1. More specific information regarding the location of structures, pool, and dock.
2. Approved design must reroute the access road away from Serenity Point properties as requested in a Public Hearing and by e-mail from adjacent SP owners.
3. The entire parcel currently zoned C-4 cannot be further subdivided into smaller lots, except as necessary for initial transfer of ownership for conservation easements.
4. No walkway may have any structure above 42" (?) railing except light poles and flagpole, to be shown on master site plan.
5. No modification of driving and parking surfaces outside building envelopes.

Miscellaneous

1. Will there be a speaker at the entrance gate?
2. Maximum flagpole height: 20 feet.
3. No motorized vehicle uses outside the building envelope.
4. The compound may not be used as a convention, event, or venue. No commercial activity allowed.

Boat Dock

1. Need access under boat dock for ATV's or other emergency vehicles.
2. Dry Standpipe Fire System to be provided for the docks and boat slips/lifts.
3. Dock lighting must comply with town ordinances.

Construction

1. Need to be clarify how height of buildings will be determined.
2. Stormwater Concept design with preliminary calculations for the anticipated impervious surfaces.

Emergency Access

1. Need for a secondary emergency access.
2. No manned aircraft landing on site, except medical emergency.

Flood Regulations

1. Sanitation stations on walkway to beach, pool and dock must be compliant with flood regulations.

The following conditions were proposed by the Planning Board. The applicant's responses are included in ***bold italic***.

Proposed Conditions by Planning Board:

1. In accord with the public access policies of the Town's land use plan (Town of Topsail Beach CAMA Core Land Use Plan 2015), the existing parking lot serving the south end shall be retained in its current state through dedication to the Town in addition to approximately one (1) acre of land adjacent thereto to accommodate future public access for residents, visitors, and the general public.
Applicant is of the opinion that the existing Leased Parking Lot satisfies the public access policies of the Town's Land Use Plan, since the Town's plan does not give specific requirements. However, the applicant is considering the request. It is the applicant's opinion that further investigation or discussions need to be made. Is this a gift or donation to the Town and if so, will the Applicant receive a Tax Credit. Applicant needs to be given the same courtesy in planning of this proposed parking plan as the Town is requiring of the Applicant in this proposed conditional rezone. How many parking spaces are anticipated, will the Town allow Applicant to use six spaces for his proposed dockage, what is the material of the parking lot, will the parking lot be fenced, what height and material, does the Town anticipate construction of bathroom facilities. Applicant would appreciate more details.
2. No development or land disturbance shall occur on the subject parcel outside of the proposed conditional zoning boundaries. Conveyance of the subject parcel outside of the conditional zoning district to a duly established conservation easement/land trust for public benefit or through dedication to the Town shall be required prior to issuance of any building permits.
Applicant agrees (1) no development or land disturbance shall occur on the subject parcel outside of the conditional zoning boundaries and (2) to convey a conservation easement consisting of a minimum of 120 acres of the subject parcel outside of the conditional zoning district to a duly-established land trust or other similar entity, or dedicate said 120 acres to the Town prior to issuance of building permits for the site.
3. Establishment of public access easements encompassing the public trust area seaward of the first line of stable natural vegetation, as presently measured, shall be required. Such easements shall be established in perpetuity from the current first line of stable natural vegetation seaward to the mean high water line as currently established and inclusive of any additional area resulting from future accretion.
Applicant agrees.
4. All habitable structures shall include a sprinkler system designed and installed in accord with the terms of the NC Fire Code. All roads and access easements shall conform to the requirements of the NC Fire Code.
Applicant agrees to adhere to the North Carolina Fire Code for residential structures.
5. No more structures than those proposed and shown on the master development plan shall be permitted on the site.

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Applicant agrees.

6. A 30 foot access easement dedicated to the Town and Pender County EMS/Fire shall be provided on all proposed roads and accessways.
Applicant agrees to grant an easement to the Town of Topsail Beach and Pender County for the limited purpose of fire, rescue and emergency access.
7. No street lighting shall be permitted. Any lighting shall be installed in accord with all applicable town rules, regulations, and ordinances.
Applicant agrees any lighting will be in accord with Town rules, regulations and ordinances.
8. No fill shall be permitted on the site.
Applicant agrees any fill material used in the construction of habitable structures on the site (not to include the gravel or other permeable products used in the creation of proposed roadways and pathways) shall be taken from the property boundaries of the site.
9. No boat ramps shall be permitted, nor shall any boat slip be rented for any purpose. Any pier and docking facility shall be for the exclusive use of the land owner or occupant and shall not be leased, rented, or used for any commercial purpose.
Applicant agrees so long as this is clarified that the exclusive use is to include the land owner or occupant's invitees, licensees, agents, successors, and assigns.
10. The minimum height of clearance below the walkway serving the marina shall be no less than nine (9) feet within a distance of 50 feet landward of the mean high water line.
Applicant agrees.
11. A minimum (350 to 500 TBD) foot setback shall be established from the first line of stable natural vegetation along the southeastern ocean shoreline.
Applicant agrees to a 300' setback as illustrated on the plan.
12. All access easements shall be privately maintained.
Applicant agrees.
13. No commercial uses shall be permitted on the site.
Applicant agrees.
14. No structure shall exceed 5,000 square feet of floor area as defined by 15A NCAC 07H .0306(a)(2)("development size").
Applicant agrees so long as this is clarified to say: No structure shall exceed 5,000 square feet of "total floor area" as defined by 15A NCAC 07H.0306(a)(2)
15. All development shall be subject to all applicable rules, regulations, and ordinances unless otherwise specified as part of the conditional zoning approval.
Applicant agrees.
16. No construction, land disturbance or other development activity shall occur without first obtaining all required Federal, State and local permits.
Applicant agrees.

General Comments (*Applicant Response to Conditions in Bold Italic*)

1. Please specify the location of any proposed fencing, including details on height and material. Please also include details of the proposed gate, including height, material, and access mechanism.
Applicant at this time does not know the exact location of any fencing, however, a gate is proposed at the entrance. Fencing will be proposed surrounding the pool and surrounding and in close proximity to the proposed residences. Fences are not anticipated along the perimeter of the building envelopes. Any fences would not exceed 6' in height.

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2. Please provide the maximum extent of any proposed uncovered decking. This detail may be described in notation contained on the plan and/or the narrative.
Decking has been illustrated on the plan.
3. Please indicate marina boat slip length and proposed distance from the mean high water line.
Dimensions shown on the plan and the location of the dockage has been delineated on the plan.
4. Please indicate through notation the proposed use of any underground storage tanks or accessory structures serving the principal residences. A note or condition may be drafted to allow up to “x” accessory structures within the building envelope, each of which shall not exceed 100 square feet.
Applicant does not intend to place any additional accessory buildings, however, do plan to have underground propane tanks adjacent to the proposed dwellings.
5. Please indicate the location of the historic Civil War Ship “The Phantom” on the master development plan. Please include the distance from the ship to the proposed building envelope.
Shown on the Plan as illustrated from information provided by Cape Fear Council of Government.
6. Please indicate any plans for nontraditional access to the site such as helicopter use.
Applicant does not plan to access the property through the use of aviation.
7. Please clarify if any of the proposed structures will be utilized for rental purposes.
Applicant does not intend to utilize the property for short term rental purposes.
8. Please provide any draft conditions for consideration.
Listed within the Narrative.
9. Please update the original narrative application to address revisions to date.
Completed.