



Application for Rezoning

Town of Oriental
P O Box 472, 507 Church St
Oriental, NC 28571
252.249.0555(ph) 252.249.0208 (fax)

Date: 3/12/2018 Filing Fee (\$400) check #/cash 3572 pd (init) NS

Applicant's Name: Alan Arnfast

Mailing Address: 68 Shoreline Ct

Location of Requested Change: 1216 LUPTON DRIVE

Contact Phone Number: 252-626-1374 Contact email: _____

Parcel ID # 5082-320-36 Tax ID# ARNfastproperties@gmail.com

Current Growth Mgmt Ordinance Classification of Property: (circle one)

MU

MU-1

R-1

R-2

R-3

Requested Growth Mgmt Ordinance Classification of Property: (circle one)

MU

MU-1

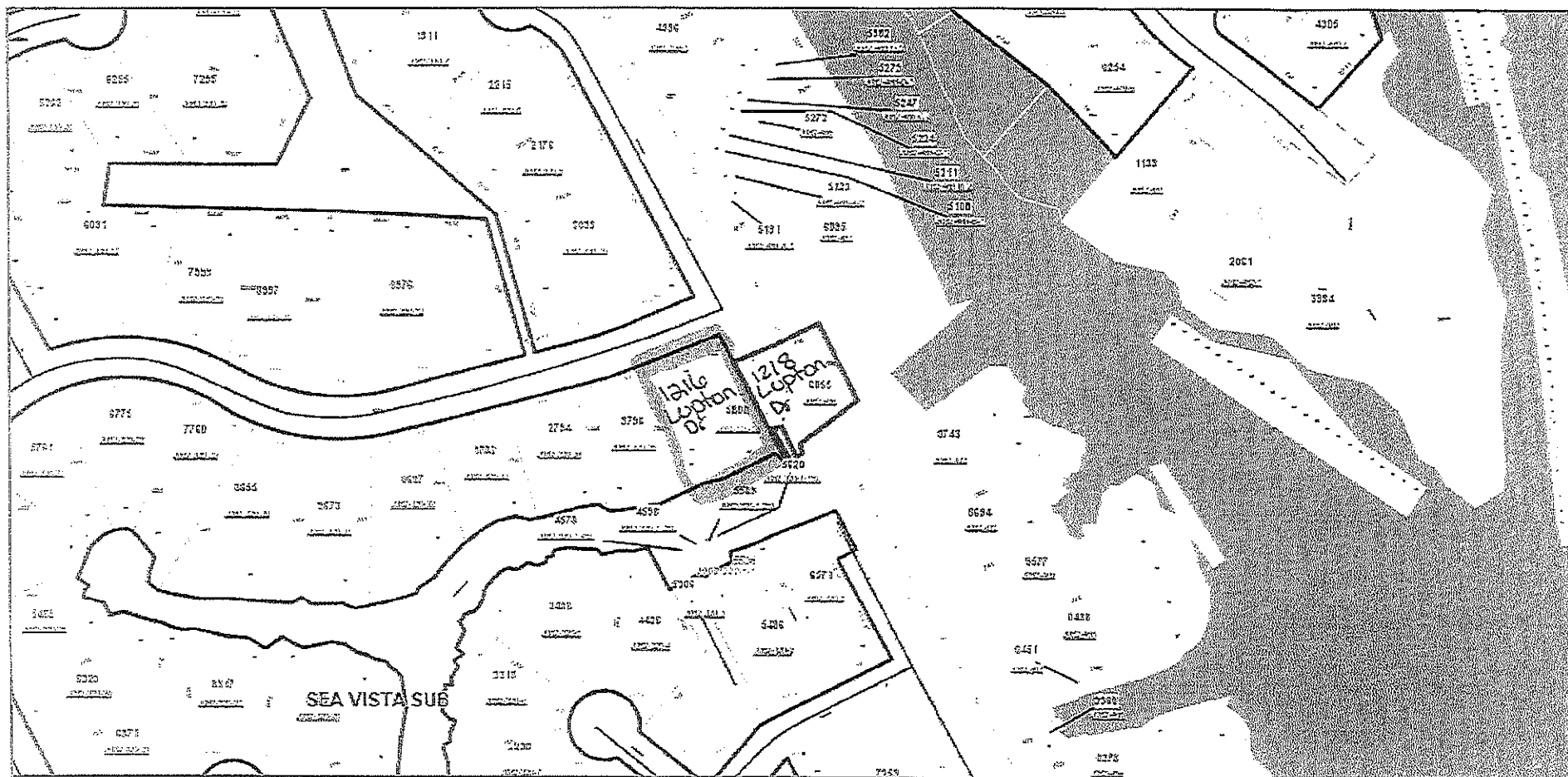
R-1

R-2

R-3

Signature of Applicant: Alan Arnfast Date: 3/12/2018

Please attach names and addresses of all property owners within 150 ft of the property requesting rezoning, a copy of the Pamlico County Tax Record, and a GIS or equivalent map.



Pamlico County, NC

Disclaimer:

The materials available at this web site are for informational purposes only and do not constitute a legal document.



50 m
200 ft

Mar/08/2018
Scale 1:2400

pin : 6497246855000
mapid : J082-486
calacres : 0.41974910364835

owner_name : ARNFAST ALAN K

owner_addr : 68 SHORELINE CT

owner_city : ORIENTAL
deedbook : 000554
deedpage : 706

1216 Lupton Dr. = R1
1218 Lupton Dr. = MU

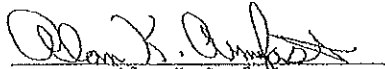
Exhibit "A"

PROPERTY DESCRIPTION FOR THE LANDS OF
ALAN K. ARNFAST

A certain lot or parcel of land in the Town of Oriental, Number Two (2) Township, Pamlico County, North Carolina, particularly described as follows:

On the north side of Tarpon Channel, south of the intersection of Tosto Circle and Lupton Drive, BEGINNING at a point 45 feet South 21° 18' East from the point in the southern line of Lupton Drive which is intersected by the western line of Tosto Circle extended southwardly, and running thence North 68° 42' East 136 feet; thence South 19° 47' East 135.05 feet to Tarpon Channel; thence westwardly with Tarpon Channel about 135 feet to the western edge of Tosto Circle extended southwardly; thence North 21° 18' West along said circle edge as so extended 144.46 feet to the point of BEGINNING, containing 44/100 of an acre, more or less, according to a survey and map by A. Hugh Harris, Jr., PE-RLS, dated June 10, 1982, copy of which is attached to the deed recorded in Book 225 at Page 224, Pamlico County Registry. Said lot is also shown on a map prepared by said Harris, dated December 8, 1987.

AS AN APPURTENANCE to the above-described lot there is conveyed herewith a perpetual, non-exclusive easement for ingress, egress and regress between it and Lupton Drive and Tosto Circle over and across that portion of Tosto Circle extended which lies between the north line of said lot and the same street intersection as shown on said Harris map recorded in Deed Book 225 at Page 224 as "Easement for Access."


Alan K. Arnfast



TOWN OF ORIENTAL
PO Office Box 472
Oriental, North Carolina 28571
(252) 249-0555 ~ Fax (252) 249-0208
www.townoforiental.com
manager@townoforiental.com

April 4, 2018

RE: 1216 Lupton Drive- Grandfathered Nonconforming Use

TO: Mr. Arey Grady, III
Attorney
Sumrell Sugg Attorneys at Law
416 Pollock St, New Bern, NC 28560

Following discussion and submitted photographic evidence documenting the use at 1216 Lupton Dr. for storage and parking as part of the operation contained at 1218 Lupton, and the contiguous Marina at the corner of Lupton and Tosto Circle, it is my decision as the Land Use Administrator for the Town of Oriental, that the use predates the enactment of the Growth Management Ordinance (GMO) which restricts such use in the R-1 zone.

A grandfathered nonconforming use may continue until and unless that property ceases to serve those specific uses for a continuous period of 180 days or more (Section 196.2, 196.3). At that time, the only allowable uses will revert to those designated acceptable in the R-1 zone according to the most recent Permissible Use Table (Section 60 of the GMO).

In addition, an unpermitted temporary structure, erected in the 2010 time frame, is currently in the process of being removed from the lot to alleviate the additional nonconformity of the parcel.

If there is anything else you need from the Town concerning the parcel in question, please do not hesitate to ask.

Sincerely,

Diane H. Miller, MPA
Town Mgr/ Land Use Administrator

Town of Oriental – Board of Commissioners Meeting
and
Public Hearing

January 7, 2003

The Oriental Town Board of Commissioners met on Tuesday January 7, 2003 at 7:00 p.m. the Oriental Town Hall. Present were Mayor Styron, Commissioners Harris, Marco, Wagoner and Sadler.

Mayor Styron opened the first public hearing pertaining to Whittaker Point Subdivision Annexation. Ben Hollowell briefly explained the location of property to be annexed. With no further comments, the public hearing was closed.

Mayor Styron opened the second public hearing, the rezoning of property at the Inn at Oriental. The Planning Board had voted 3 to 2 to approve the change. Both views of those opposed and those who approved the change were heard. With no further comments the public hearing was closed.

Mayor Styron opened the regular meeting and led the pledge allegiance.

Commissioner Marco made a motion to approve the minutes from the December 3, 2002 meeting. Second by Commissioner Wagoner. Vote 4-0

Commissioner Harris made a motion to approve the annexation request for the Whittaker Point Subdivision. Second by Commissioner Marco. Vote 4-0

Commissioner Marco made a motion to approve the Inn at Oriental's request to rezone their property from R2 to MU. Second by Commissioner Harris. Vote 4-0

Jenny Lassiter, Pamlico County Health Department Director, informed the Board of Pamlico County's current and future efforts to control the mosquitoes as well as their efforts to solicit funding for future control programs. Dan Baker, Oriental Public Works Director, informed the Board of Oriental's need for a microscope to assist with mosquito identification. Identification plays a significant role in mosquito control. It was noted that the NC Department of Environment and Natural Resources, Public Health Pest Management, would reimburse 50% of the purchase of the microscope provided it did not exceed the current contract amount. Commissioner Marco made a motion to purchase the microscope providing NCDENR verifies, in writing, the 50% reimbursement. Commissioner Harris seconded. Vote 4-0

Town Manager Cutler informed the Board of the receipt of \$9,800.00 in franchise tax. that was not budgeted. The governor had withheld franchise tax reimbursements in the past.

Chuck Lee and Ken King discussed the possible location for a small boat launch dock in Oriental. The Town has received a \$8500.00 grant from the Harold Bate Foundation to be used in the construction of the dock / launch area. After reviewing a number of sites, it was felt that the end of Midyette Street, next to the Wildlife Ramp, would be the best location. Parking was discussed. The Board was in favor of the dock being constructed at the end of Midyette Street.

Rich Happ of Pamlico Information Network Enterprise asked the Board for permission to place an antenna on the water tank in order to provide high speed internet access to the area residents. He suggested that the Oriental Police Department and Town Hall receive free internet in exchange for the water tank use. Commissioner Sadler excused herself from voting due to a possible conflict of interest. Commissioner Marco made a motion to approve the request to put an antenna on the water tank pending review and approval of the contract. Commissioner Wagoner seconded. Vote 3-0 with Commissioner Sadler not voting. Manager Cutler will meet with attorney Davis to design a contract.

Planning Board Report: Member Alice DeBaun asked that the Town Board review Oriental Marina's plans for a 3 phase project that involved the sale of individual motel rooms, the construction of additional motel rooms, and the construction of a new restaurant. It was suggested that full time residence in the unit not be permitted. The project would also consider sale of boat slips to individual owners.

BRMSD Report: Commissioner Harris reported that the State determined a "finding of no significant impact concerning the Reelsboro sewer project.

Financial Report: Commissioner Sadler reported that this was to be a tight year. The General Fund was down \$6,500.00 and the Water Fund bottom line was on the plus side but cash was down \$3,500.00.

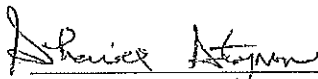
Pamlico County Board Meeting Report: Commissioner Sadler reported that the County voted to approve a \$75,000 grant to the non profit Coastal Carolina Action for individuals to learn how to write grants. The Board approved new uniforms for the Sheriff's department. The County received \$400,000.00 for scattered sites housing under CDBG, which includes the Oriental area.

The Board discussed a proposed change to the ordinance on past due water bills. Commissioner Sadler made a motion to approve changes to the ordinance as presented. Second by Commissioner Marco. Vote 4-0

Commissioner Sadler made a motion to set a Public Hearing at the next Board Meeting, February 4, 2003 on two parking amendments to the GMO. Second by Commissioner Harris. Vote 4-0

The Town of Grantsboro requested that local boards get together once a year to discuss common interests. It was reported that the proposed meeting would be in early February 2003. Manager Cutler was asked to inform Grantsboro's mayor of Oriental's agreement to attend.

With no further business, Commissioner Harris made a motion to adjourn. Second by Commission Sadler. Vote 4-0.



Mayor



Town Manager

Number 3

Rezoning of Property at the Inn at Oriental

1. The two lots proposed to be rezoned are JO82-312 and JO82-313 as shown on the enclosed map (last sheet). The current zoning is R-2. The requested zoning is MU.
2. The Planning Board voted 3-2 in favor of the rezoning.
3. There is a checklist at the bottom of the next page that may be used in considering the request. Also enclosed is a section from the GMO (page 3).

Rezoning request NOTES from the Manager:

The rezoning of the Deaton parcels in question:

Mr. Arnfast noted Deaton rezoning in similar situation “about 15 years ago”:

There is nothing registered at the Register of Deeds for this to have happened in that time frame. The Town’s paperwork is shaky at best due to watersoaked and moldy documents having been purged by temporary employees in the aftermath of Hurricane Irene. The time frame has several documents still in our possession half soaked and moldy, in the time frame where this is said to have taken place, however, there is no indication that the rezoning was filed at the Register of Deeds. Also, Mr. David White noted that the Deaton parcels were parking lots prior to the GMO’s existence. One lot is zoned MU, and one (clearly) residential lot used for parking, storage and slips is zoned residential. Both lots are considered part of the subdivision. The lot on the corner of Neuse and Link is zoned MU (J082-321-36) and is not considered part of the subdivision (see Deaton photo pulled from GIS). The lot in question for rezoning (J082-320-36) is included in the subdivision and zoned R-1 currently. This indicates a lack of consistency in past zoning decisions and allows for interpretation both by this Board and the Town Board. Attached also is the only Public Hearing for rezoning considered by the Town Board during the time frame given (Inn at Oriental, January 7, 2003).

Consistency/Inconsistency with Long Range Plans and other sections of the GMO:

Consistency:

The parcel obviously (through photographic proof) was used in an MU capacity predating the GMO and MAY have been coded incorrectly during the creation of the Official map- Imposing zoning on preexisting use generally (according to SOG guidelines) notes the current uses as allowable when zoning is imposed, so as not to create nonconformities from the beginning.

The CAMA Plan notes that uses should be employing BMPs for uses on the water, and Mr. Arnfast’s submission of clean Phase I Environmental study and clean discharge results indicate the history of the entity as compliant.

The CAMA Plan and Town’s long range Land Use Plan indicate a mix of uses, support for commercial businesses in Town, emphasis on Tourism industry, services.

Inconsistency:

There appears to have been no buffer imposed between MU (heaviest uses) and R-1 (most restrictive uses), and rezoning would expand the lack of buffer and allowance for larger operation of boatyard activities, which the Planning Board spent several months working to restrict further in MU zones. The range of possibilities in any MU are most incompatible with R-1 uses, according to the revised Permissible Use Table of the GMO.

There is no evidence of consistent rezoning for parcels connected to residential subdivisions to Mixed Use or consistently not rezoning to Mixed Use.

The range of uses that can be allowed in a Mixed Use zone must be considered by both the Planning Board and the Town Board in that, despite any assurances given by the petitioner, the entire range of potential uses must be considered, as in, or not in, the public interest.

ORIENTAL PLANNING BOARD MINUTES

May 27, 2003

Members in Attendance

Candy Bohmert
Joe Wakefield
Frank Swain
Jim Frederick

The regular meeting was called to order at 7:10 p.m.

The minutes of the April 29th meeting were approved as presented.

Frank Swain presented the plans for the next phase of the "condo-tells", and explained where the new restaurant will be located. However, CAMA, DWQ, and the county must approve the plan first.

Oriental Harbor wanted to have the question "Can the parking spaces on the encroachment be counted towards the parking requirement"? We had hoped to have something by now that would tell us how many parking spaces are actually down there. If we do not count the encroachment, then he may fall short of the requirement. Also, with the addition of tables to the deck for the restaurant, his amount of parking required should also increase. We did agree, however, to allow the encroachment parking to count with his required. **MOTION- Joe Wakefield SECONDED- Frank Swain APPROVED 4 – 0**

It should also be noted that the encroachment area is now deeded to another entity. Mr. Dobson should only be regarded as an agent.

Alan Arnfast with Sailcraft Marina was going to do a preliminary request for a change in zoning. He did not show up, therefore, we tabled it. **MOTION-Frank Swain, Seconded-Joe Wakefield APPROVED 4 – 0.**

We discussed whether or not something needed to be added to the GMO about swimming pools. The discussion was brief. We decided that as long as impervious surface and setbacks were adhered to, swimming pools were not problematic.

We reviewed a number of permits. Two sign permits were among them. There was a question from Frank about the change in use for the Quay building that went from a Sailing School to a grocery. We also discussed the parking. The new parking ordinance (Section 201) had done its job. This was a permit for a business and should have come before the Planning Board. This was an oversight, and will, hopefully, not happen again.

The meeting was adjourned at 8:00 p.m.

April 18, 2018 Statement of Zoning Inconsistency from the Planning Board

On March 21, 2018, the Planning Board met, and, as part of their agenda, passed a recommendation to the Town Board to schedule a Public Hearing for the rezoning of 1216 Lupton Dr from R-1 to MU

The Planning Board recommends, by a vote of 4-0 with one abstention (Winfrey) that the Town Board not rezone the property.

Per **§ 160A-383**, The Planning Board notes that the rezoning of parcel J081-320-36, further described in the metes and bounds submitted as part of the petition to rezone by Alan K. Arnfast, would be deemed an amendment to the official Growth Management Ordinance Map (GMO Map) for the Town of Oriental, and will be amended if so directed by the Town Board, and

That the rezoning of the above named property does not meet the development needs of the community by extending area on which Sailcraft Boatyard and Marina can operate; and

That this rezoning is not reasonable and in the public interest, as evidenced by the recent revision of acceptable uses; and

That the rezoning amendment to the GMO Map is inconsistent with the Comprehensive Land Use Plan and the GMO; and

The Planning Board recommends that the property in question not be rezoned MU (Mixed Use) as is not compatible with residential properties in the vicinity, and as designed to expand the uses on the adjacent property.



Stan Aeschleman, Chair, Planning Board



Diane Miller, Recording, Town Clerk

AN ORDINANCE TO AMEND THE MAP OF THE ORIENTAL GROWTH MANAGEMENT ORDINANCE

WHEREAS, the following due advertisement and a Public Hearing on May 1, 2018, the Oriental Board of Commissioners have adopted the following amendment to the official map of the Oriental Growth Management Ordinance;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Oriental, in order to protect the public health, safety, and welfare, the following amendment shall be made to the Oriental Growth Management Map.

SECTION 1.

Being all of that 0.60 acre parcel shown as Parcel J082-320-36 on the survey map entitled Lot 36 Sea Vista Subdivision, on a map prepared by Rivers and Associates August 6, 1969 and recorded at Pamlico County Register of Deeds in Map Book 4, Page 100, Pamlico County Registry, Said tract is all of Parcel J082-320-36, according to the Pamlico County Tax Collector.

SECTION 2.

The Town Board has determined that the Town of Oriental CAMA Land Use Plan, the Growth Management Ordinance, the Long Range Vision, and the Comprehensive Plan have all been consulted for compatibility and the Board has determined that the above amendment is reasonable and in the public interest for the following reason:

SECTION 3.

The Ordinance shall be effective from and after the date of its adoption.

Adopted this 1st Day of May, 2018

Sally Belangia, Mayor

Diane H. Miller, Manager/Clerk



ORIENTAL PLANNING BOARD MINUTES

Wednesday, March 21, 2018

Oriental Town Hall – 507 Church Street, Oriental, NC

CALL MEETING TO ORDER AND ESTABLISH QUORUM

At 3:03PM, Chairman Stan Aeschleman called the meeting to order and noted a quorum with all present: Chairman Aeschleman, Vice Chair Lohmar, Members Flaherty, Winfrey.

OLD BUSINESS

- Approve Minutes from Meeting: Member Flaherty made a **MOTION** to approve the February Minutes and Member Winfrey seconded. 4-0.

NEW BUSINESS

- Swearing in of Martin Barrow (document attached)
- Rezoning request for 1216 Lupton Dr from R-1 to MU- falls under an amendment to the GMO Map. Manager Miller lays out the process. Planning Board sees it today and requests that the Town Board schedule a Public Hearing for May 1. They will require from you a recommendation for approval or denial. The background of the project is as follows: Contiguous use to both R-1 and MU. After extended conversation with attorney this morning, the situation is similar to one we've had in the past- proof produced that the nonconforming use has been continuous from prior to enactment of the GMO. This use (storage and parking is currently grandfathered as a nonconforming continuous use) can continue regardless of rezoning decision until and unless it is discontinued for more than 180 consecutive days. Manager Miller lays out the property in question and surrounding properties.
- Mr. Arnfast (requestor) History: 1985 until present has been there, and from 1975 has been same use (storage and parking). Parking, Boatyard, and Marina. He brought photo from the area in 1985-1989 timeframe and delineated the property in question. Mr. Andy Denmark operated. All boats arranged and docked- about 15 boats (prior to travel lift) about 1975. Arnfast purchased in 2001 including sliprenters, boat service clientele, etc. Property has continuously been used the same way. Deaton's lots opposite on the canal lobbied for rezoning from residential to MU successfully. [Manager's note: The box that would contain paperwork of Mr. Deaton's rezoning contained documents that were water damaged and any documents prior to 2005 petition to annex and rezone would have been the next sets of documents. Staff has been told that boxes and boxes of documents were thrown out following Hurricane Irene. The documents located from 2005 were obviously water-damaged and partially molded. Suggesting that those preceding were determined to be unrecoverable. We have requests in to the Register of Deeds to try and recover those documents.] Mr. Arnfast believes that the Deaton rezoning was "about 15 years ago." Mr. Arnfast believes that the current existing use of the property is well within the Land Use Plan, and that when things are busy in the good

weather, the lot in question alleviates additional parking that would be on the street. The outflow on the lot is monitored and Sailcraft is noted to be a good environmental steward. Also, the property has passed a Phase I Site evaluation twice. (document attached). Down to 8 particulates, down from 43. Working hard to reduce the environmental footprint. Petroleum product discharge is less than 5. Mr. Arnfast details the temporary structure on the lot in question. It was constructed for a patron to build a boat. The building was left on the property for Mr. Arnfast's use. It is currently used for storage, but he would be happy to take the building down as it is likely at the end of its lifespan anyway. Manager Miller noted that she had advised Mr. Arnfast to forward as much information as possible as soon as possible for the Boards to review. One of the results of the rezoning would be that any expansion of his business onto that lot, if rezoned, would be restricted by the newly enacted GMO permissible use table restrictions, so would be more strictly regulated than other MU properties in town. Questions arise about vegetative buffers. Those would only kick in if rezoned. Sale is the 1216 R-1, the 1214 R-1 (with the house on it), and 1218 MU [all three properties] Liaison- Commissioner Overcash- 3 choices- rezone, don't rezone, leave as grandfathered use. Mr. Ken King-cannot see something that would be any more drastic than what it is being used for now. Chairman Aeschleman notes the process- today we recommend that the Commissioners set a Public Hearing. At our next meeting, we make a recommendation on the actual rezoning. Vice Chair Lohmar makes a **MOTION** that the Planning Board set a Public Hearing. Member Flaherty seconds, 5-0. Chairman Aeschleman notes 237.2 directive to Planning Board as well as 239.3 charge to Commissioners must adopt the consistency statement also. 241- Town Board must consider whether amendment advances Public Health Safety and Welfare. Manager notes that third option is now available where the rezoning is approved, even though it is inconsistent, which de facto, changes the long range plans. Commissioner Overcash asks if the rezoning not going through is a deal-breaker for the mortgage company. Mr. Arnfast is not sure. He notes that he will stay on for at least a year post-sale, as he turns the business over to the new owners.

- Potential request for the addition of new subdivision- off the end of Shorey Court out White Farm Rd. with design on Whittaker Creek. The property is not currently annexed into town. While we had worked on "the process" for getting a subdivision approved. Noting that the current version of the GMO is posted in three parts while we were reformatting the entire document. Advice from legal counsel is that we have no jurisdiction over this property. Attorney advised that we not give the cheat sheet to the developer for the quick version of process for the fact that we might miss something. We are recommending that you give the whole project and our GMO to your attorney, and see if the project will fit inside the regulations. Until the property is annexed in, we have no jurisdiction on your plans. Sue Sayger, representing Mr. Martin Pratt, lays out where they are in the planning processes. We have discussed our water issues/pressure/flow rate/etc- trying to get an easement through Whittaker Harbor to loop the water system. Manager Miller discusses potential fix for looping that halted pursuit of this development previously. Allowances in the GMO are there for geographically or topographically difficult or impossible requirements. Ms. Sayger notes that the owner/developer has every intention of annexing in. Manager Miller notes a few things that may have to be changed on the proffered design, like private roads, etc. Ms. Sayger asked if there is anything we would like to see when they go to make the design more compliant with

the GMO. Chairman Aeschleman states that we cannot go down that road until the property is annexed in. Ms. Sayger notes that at one time they had toyed with making the development include retail/restaurant space- which would be addressed with zoning. She asks for annexation process. What is required. Manager Miller notes the very few requirements for annexation and describes the process. A short discussion of potential zoning ensued.

- Permits issued: Athey conversion of garage into apartment was permitted under a LUP, DeCain construction of modular home (regulated as a stick built home) is going in next to Lupton Park- you can see the foundation already laid- awaiting delivery of the modules to be fitted together onto the foundation. (documents attached.)
- A discussion ensued concerning potential addition of development regulation as affects fire hydrant placement and looping water system as a requirement. Planning recommends that these additions be made to Chapter K and not the development standards. The need is to go away from blowoffs and flushing and reduce the amount of treated water flushed through the system. An extension from the main of NLT 6 inches halfway to the end of any new cul de sac, install a hydrant, reduce to No Smaller than 4 inches and loop back around the cul de sac so that all lines are looped back to the main. It's a safety/conservation issue that needs to be addressed. Ms. Miller will bring these changes to the Town Board in Chapter K, and adjust the compliance form to include general ordinances as well as the GMO.
- Agenda for April
 - We'll have to give recommendations for rezoning. Ms. Miller will forward a consistency or nonconsistency option.
 - Potentially, we will be discussing the annexation of the 3 Lions project.
 - Chairman Aeschleman notes the presentation to the Commissioners at retreat about accomplishments and priorities. The things we started that did not come to their end because of pressing issues need to be continued. Dark Skies and Sidewalks, as well as CAMA Land Use Plan are in draft form currently. If we have time, let's put those other things on the agenda. Chairman Aeschleman asks Ms. Miller to send out the marked up copy of the CAMA LUP.
- **NON-AGENDA ITEMS / PUBLIC COMMENT**
 - Manager Miller notes the GMO is posted in sections to the website- need fresh formatting- looking at a few people willing to do that- 144 page document. Board agrees that needs to be done.
 - Commissioner White asks that we make sure we get word out to make sure everyone is aware of the rezoning. Accompanying documents can be forwarded to the Board with the recommendations. Any letter sent to Planning can be attached to their recommendations- this is why we

encourage people- especially those who may not be able to attend the Town Board meeting, so their opinions are registered. This is why we encourage people to attend Planning Board meetings. Commissioner White notes that the lots at Deaton's were purchased and used as they are prior to enactment of the GMO, so we are likely to not find paperwork on a rezoning.

ADJOURN

Member Winfrey made a MOTION to adjourn. Vice Chair Lohmar seconded. 5-0 Meeting adjourned at 4:31PM.

Stan Aeschleman, Chairman

Diane Miller, Clerk to the Board

Approved 4/18/18_____



ORIENTAL PLANNING BOARD MEETING MINUTES

Wednesday, April 18, 2018

Oriental Town Hall – 507 Church Street, Oriental, NC

CALL MEETING TO ORDER AND ESTABLISH QUORUM

Chairman Stan Aeschleman calls the meeting to order at 3:03, noting that Member Flaherty is on the way and the rest of the Board is present. Member Flaherty arrives at 3:07.

OLD BUSINESS

- Approve Minutes from March 21 Meeting : Vice Chair Lohmar makes a **MOTION** that the Minutes from March 21, 2018 be approved. Member Barrow seconds. 4-0.

NEW BUSINESS

- Rezoning request- R-1 on 1216 Lupton Dr to MU- recommendation to forward to Town Board: Chairman Aeschleman notes the rezoning request has been forwarded to the Town Board and a request to set a Public Hearing was accepted. The Hearing is set for May 1, 2018 where the Planning Board will need to forward a recommendation for that Hearing.

Chairman opens the floor for Public Comment. Vice Chair Lohmar asks if the map we are looking at is the same map as in the pkg. It is not- for ease of use, the Manager has replaced that map with one highlighting the property of the request.

Susan Dillard (1204 Lupton Dr) purchased 2014, has used the Marina. Opposed to rezoning. Wants to understand the grandfathering of the use. If the uses grandfathered, that is not objectionable- if the grandfathered terms are overreaching or different uses may be objectionable. Hoping not more open ended than what it is being used for today. Other concern is annexing and creep- availability of additional lots in the future- moving down Lupton. Happy to help monitor the uses on the property.

Manager offers to address. Manager Miller: grandfathering action. The USE is parking and storage ONLY. Those things can continue in perpetuity- through several owners, but only the approved uses. Because there has been a fluid use, dependent on seasonal use, sometimes it's heavier and sometimes lighter. It is not a permitted parking- if it was, there would be buffers required and limited numbers by available spaces. Commissioner Overcash noted that the use cannot expand to OTHER uses. Mayor Pro Tempore White notes that the temporary building has been removed. Ms. Dillard asks if there are 10 boats there now, and in the future there were 25, is that acceptable? Yes- it's the USE, not the VOLUME.

A discussion ensued concerning the number of boats docked, covenants vs. ordinances.

Mr. McGovern (104 Gull Circle) is discussing covenants and riparian rights. Manager notes that CAMA riparian lines are regulated by the State, not us. We also do not get in the middle of covenant issues- that's between neighbors.

Jennifer Pawlikowski: (prospective Buyers): question: is the channel blocked by boats? David White indicates it is not because there have been conversations between owners to make sure that didn't happen- and also, Alan dug out (with CAMA permit) the back end of the property to allow for rafting and use by catamarans. The current arrangement works.

Eric Dammeyer (1116 Link Lane) notes that Sailcraft has always moved anything that impeded his ingress or egress from his slip. Also opposes rezoning. No issues with the grandfathering. Note that everything that COULD be in an MU is the problem. Notes the direction of section 240 that specifically advises the Town Commissioners must consider ALL of the potential uses, and none of the representations of the petitioners. Would like to see the Planning Board to note the reasons for their recommendation.

Chairman Aeschleman thinks the direction is fairly vague, but the biggest issue is that ANYTHING can go into that zone.

Manager has forwarded a draft that the Planning Board can use for its recommendation. Sections 237 through 240 address the specific job of both the Planning and Town Boards. Several interesting documents. In searching for the rezoning request from Deaton's "about 15 years ago"- there is no rezoning request in that period for that property. The only rezoning found was for the Inn at Oriental. Note that subdivision lines encompass some MUs and not others, some subdivisions only zoned subdivision inclusions as R-1. No consistency in that on both sides of the same creek. Also note if the lot in question was being used as it is today, there was an argument to be made at that time for a change in zoning as the map was being approved- missed opportunity. Also found indication of interest in rezoning in 2003- where there was on the agenda the potential for asking the Town Board to schedule a Public Hearing and the process was tabled. (Attached)

Manager notes the clean environmental studies produced by Mr. Arnfast in light of the Planning Board's interest in protecting the waterways. As exists, there is no buffer between R-1 and MU, that lack of buffer would simply move the lack of buffer one property down. Manager Miller noted all potential reasoning the Board could use for their recommendation.

Jennifer Pawlikowski: Seems that this was an oversight in the original mapping. Again the Manager notes that there was an opportunity with the draft map to come forward and argue the proposed zoning. The School of Government notes that imposed zoning on an existing set of uses is difficult and generally zones according to existing uses.

Vice Chair Lohmar indicates reasons to not rezone: That this sets a precedent for going down the line, the array of potential uses, and actually, based on the Land Use Plan and need to protect the waters, the MU uses are not compatible with waterfront properties. She noted that the grandfathered use is in perpetuity. Manager notes that we had this very discussion with the Fisheries on the Harbor- that if those properties were sold and the use discontinued for 180 or more days- that same operation would NOT be allowed in those MU zones on the Harbor. For these reasons, she opposed the rezoning.

Member Barrow notes we are looking at the most restrictive residential up against a proposed least restrictive zone. There is no compelling reason to rezone this parcel.

Chairman Aeschleman notes the vague direction. Our obligation as the Planning Board is to allow citizens to engage in the process, but the real negative is the possibilities once rezoned. He asks for a Motion in the affirmative.

Vice Chair Lohmar makes the motion in the affirmative (to approve the rezoning), Member Flaherty seconds. 0-4, with Member Winfrey abstaining. Recommendation to rezone is not accepted.

Chairman Aeschleman takes the draft and removes those items that would approve the request, and will have it signed and forwarded to the Town Board.

- Compliance forms from March/April: Oriental Professional Properties boats on MU for sale (LUP required), Tim Balfour (new residential) , Richard Sammons ("park home" addition to permanent residence) potential revision to Chapter H- potential to have livestock in Town. Restrictions currently may be unreasonably strict, and revisable. Questions about fowl in town- noted the rooster/chickens in question have been a continuous flock since property established in 1964. Any new that have come into town have immediately been met with neighbor complaints and removed. More new home starts coming next month on vacant parcels.
- Potential new business at Hodges St- inquiries for property on Hodges St in MU-1 for use as restaurant (wood-fired pizza). Manager notes the prospective owner is asking the right questions from us and the Health Dept Director- no paperwork has been forwarded. (LUP required in MU-1). Discussion went on about ensuring there is no back-out parking.
- Previous projects: unfinished projects: Noted that we need to finish up the CAMA LUP, which was shelved following GMO update needs. Chair suggests that different members reread and bring the whole documents back to the Board. Manager notes Member Winfrey has some access to someone who could assist in fixing the graphics required. Manager notes the water classifications are correct and up to date. Vice Chair Lohmar asks Chair Aeschleman to find a workable date and then contact other members for availability.
- Member Flaherty asks about progress on Whittaker Pointe restoration. Manager notes the ongoing processes and agencies involved.

- Chairman Aeschleman notes progress on the King Tides project as it affects Oriental. Placement of a staff gauge at Town Dock #1 would assist both them and us on documenting our higher than normal water levels.
- Vice Chair Lohmar would like for the Board to address Dark Skies again especially addressing external lights on new housing.
- Manager notes the Engineer that joined us last month concerning new development lost her husband last week, so the project has not brought a petition for annexation, and likely would not before the next meeting
- Update on Duke lighting. limited options for shielding on existing fixtures. Potential for experimenting with solar off-grid lighting.

ADJOURN: Member Winfrey made a MOTION to adjourn. Vice Chair Lohmar seconded.

5-0. Adjourned 4:20PM.