



## **ORIENTAL PLANNING BOARD MINUTES**

Wednesday, October 26, 2022 3:00PM  
Oriental Town Hall – 507 Church Street, Oriental, NC

### **CALL MEETING TO ORDER AND ESTABLISH QUORUM**

Meeting was called to order at 3:00PM with Chairman Rahm, and Members Quigley, Stone, and Member DeWeese. Members Willi and Stone were absent (excused absences). LUA Miller was present. Commissioners Frank Roe, Charlie Overcash, and Allen Price were also present.

**Agenda Approval:** Without dissent, Chair Rahm accepts the agenda and apologizes for delayed posting of documents.

**August Minutes for approval.** Member Quigley notes that Commissioner Price was also present for the 10/5/meeting. Member Quigley makes the MOTION to approve the amended minutes. Member DeWeese seconds. 3-0

### **OLD BUSINESS**

- **CAMA Land Use Plan**-Comments from other Boards distributed. HWAC looked at Exhibit 4 for the CAMA plan. Chair asks that Members look through the exhibit (with notes added) and get back to her on those. Let her know if there is something we do or do not want to include in the draft version. Dan Allen had sent from HWAC. Listed as Exhibit 4, version 2. Julie will add additional comments from the Public Open House to that exhibit.
- Diane will also need some discussion on the maps prior to Nov 2 in order to provide direction to the ECCOG for re-drawing those maps. (Looking at FLUM map and Current Land Use Map). Members asked to look over these maps and make any suggestions for review.
- Member Quigley asks how best to accomplish prior to Wednesday. Things like Whittaker Pointe project is designated residential on the old map. Chair Rahm proposes Tuesday afternoon 1:30PM (Nov 1) to gather for review of maps.
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- Commissioner Roe asks that we remember to value the businesses at the water's edge. Currently grossly undervalued. Marinas and Boatyards, 2 large fish processors. We want to support and sustain local commercial fishing industry which is under considerable environmental, regulatory constraints. LUA notes that we are required to have a CAMA LUP if we have our own zoning- access. That should be addressed in the Comprehensive Plan. This document is how we plan to comply with NCDEQ rules. LUA notes this is where we commit to including CAMA stipulations into our GMO moving forward- for example- NEW boat wash has different rules from what WAS existing. Movement toward environmental responsibility and our compliance through zoning. So this document does not address those things because it is not supposed to- the Comprehensive Plan SHOULD. Commissioner Roe asks why we do not accept the County's CAMA Land Use Plan. LUA notes that we have different (more strict) zoning

regulations. If you have your own zoning, you must have your own CAMA Land Use Plan. Commissioner Overcash notes that we should not give away any more to the County-. LUA notes that we are required to have it, and also that if the County changes theirs, we would have to amend it. Chair notes we will look at the Comprehensive Plan to where that can be inserted. Chair is looking to finish this (CAMALUP) by January. Commissioner Roe asks for source document for CAMA requirements. In docs posted, there is a flowchart and a 160D document. The flowchart we use is an “amendment” chart- for updating an existing document, which is much easier than going through the original document approval. Commissioner Roe wants to make sure we are not overstepping in this document. LUA notes things like spraying for mosquitoes and not near the water’s edge, not cutting down the marsh grass at the pond except for once a year, etc. Chair notes all plans should be in agreement. It would be nice to get this ready to go out in January, but if it takes longer to get it right, so be it. Commissioner Overcash notes we can schedule the PH and then table it if not ready. Group will meet Nov 1, 1:30 to review maps and Ex. 4.

- **Driveways-** requested PH for the TB meeting on Nov 1 for Dec 6. PB will see it one more time before the PH. So, following the last meeting another scenario came up- if two 50’ frontages adjoin, and both want circular driveways, we end up with 40’ of continuous driveway. Solution is to require a 5’ break between and a 2.5’ setback to the property line. Also included that whatever is removed (existing) can be replaced as existing. Commissioner Roe notes culvert MAY extend further than the driveway concrete. PB does not see that as a problem. Apron defined as part of the driveway that connects to the street. LUA notes usually angled to the asphalt street. Commissioner Price has issue that the apron is usually flared and should not count in the 20’. It is part of the driveway restriction within the right-of-way. This change means 20’ is the limit of the apron as well. Several members note that the owner decides how wide the driveway is and Commissioner Price notes a 20’ driveway does not allow any flare at the end. Member Quigley notes we are managing the runoff and culverts and infrastructure. LUA notes aprons are there to ensure that the connection between the two (road and driveway) is stable. LUA will craft what you choose to include or preclude. Percentages were removed from Residential zones. PB will see the prepared document Nov 16 with a consistency statement. PB directs LUA to prepare documents and forward to TB for Public Hearing.

## NEW BUSINESS

- **Compliance forms:**
- Buck- 11 acre parcel connected to R-1 lot on White Farm. Building on the R-3 lot, driveway on R-1 lot. While building, RV allowed for residence. Cannot store those things on a separate R-1 lot. Can either move all of that to the R-3 lot, or recombine parcels. He has chosen to move things back to R-3 lot. R-1 lot up front simply has driveway running through it. Same Mr. Buck that had chosen to drill a well is now planning to tap onto our water.
- Other was an LUP for a restaurant going into building behind Oriental Deli. New restaurant will be open hours that the deli is not.
- There are other applications that came through while I was out, you’ll see them next meeting.
- Dolphin Point has denied (by covenant) addition of a carport- that has not come to us.

- Height certification received on the Messikomer residence on Maritime Rd received.
- Chair asks about height. In the County, height to the floor is same as ours. Is that what we're talking about? NO. This is max height of the top of the structure. Height of the bottom floor is according to the Floodplain Management Ordinance.

- MJ Marine letter. Letter received from attorney for MJ Marine. Purchased in 2018. During the purchase process, the previous owner (Mr. Arnfast) applied for rezoning for the parcel in question, currently zoned R-1, lying between the MU Sailcraft/M&J Marine lot and a residential R-1 lot with a home on it, owned and occupied by the Pawlikowskis/their family. (Map to show what we are talking about). The middle lot is the lot in question. In the process of the sale, Arnfast requested rezone to MU. It was agreed by Mr. Arnfast that the lot had been used for storage of boats, boat parts (masts) and car parking, and that's it. Those uses were grandfathered. Chair notes the grandfathering came about because the GMO was enacted with zoning after the boatyard was in operation. Ultimately, when the initial zoning was imposed, THEN it should have been challenged that this lot is not being used for single family residential, but there was no challenge to the proposed zoning at that time (1999). Andy Den(inaudible) owned a Cape Dory dealership on those lots.

- Attorney states in his letter that prior to 1999, the lot was used for boat repair, which is not what Mr. Arnfast stated in the rezoning process request.
- Mr. Arnfast submitted a rezoning request in 2003, in which he did not come to the meeting where that was to take place and it was tabled. : “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.**”

- In addition, Minutes excerpt: March 21, 2018:
- “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.”

“At the same time, Mr. Arnfast had a non-permitted temporary structure on that property in question that had been erected for construction of a boat and was now used for storage: “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.”

- Rezoning was denied. At that time, the Pawlikowskis were aware that no work was to be done on the middle lot zoned R-1. Minutes excerpted from TB meeting 5-1-18, rezoning Public Hearing:
- “**Mayor Pro Tempore White** made a **MOTION** to open the Public Hearing. Seconded by **Commissioner Overcash**. Motion passed 4-0.
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- **Mayor Belangia:** Open Public Hearing, you have to be sworn in.
- **Manager Miller:** Yes, ma'am.
- **Mayor Belangia:** You have to state your name, address and swear in. First one is Ronald Zielinski.

- **Manager Miller:** If we could swear everybody at once, it would be great.
- **Mayor Belangia:** Henry Frazer, Jennifer and Mike Pawlikowski.
- **Manager Miller:** Do you swear or affirm that the evidence you shall give the Board in this action shall be the truth, the whole truth, and nothing but the truth, so help you God. All answered yes.
- **Mayor Belangia:** We'll start with the first one on the list – Ronald, your address.
- **Ronald Zielinski:** My name is Ronald Zielinski. I live at 102 Gull Circle in Oriental. I am here to talk to you about our property, Ron Zielinski and my wife Linda, we have been living at 102 Gull Circle for about 16 years now. The lot we have is slightly diagonal from lot 1216, which is under question right now. We are across from a piece of water there that is called Tarpon Channel. In the past, we accepted the Town of Oriental's allowing restricted commercial use of the said property, which they talked about already. However, we do not support the new change to an MU. Our considerations are a fear of major changes in buildings which would be allowed. Also, there could be additional work done on there, which are not allowed at this point, which could actually increase noise, number one, possible pollution from (inaudible) runoff of the property and we have to worry about any kind of pollution getting into that creek right there. Last but not least, if something is put there, which isn't there now, and all of a sudden removes the trees, the looks of the property and the openness of the whole area, it could reduce the properties values, ours and possibly all of the people along side of us so those are the main issues I have against it.
- **Mayor Belangia:** Thank you so much.
- **Commissioners Overcash and White:** Thanks, Ron.
- **Mayor Belangia:** Henry Frazer.
- **Henry Frazer:** I would just like to welcome our newest folks to Oriental, Mike and Jennifer, and I am sure they will do an outstanding job for us in Sail Craft Service and that's it.
- **Mayor Belangia:** Did you guys want to talk too? Jennifer and Mike.
- **Jennifer Pawlikowski:** We just wanted to say that we are very proud and happy to be a part of Oriental.
- **Mike Pawlikowski:** We are excited to join the community and take on the business (Jennifer – and make it even better) and for us to grow and continue the legacy that Alan has had and the previous owner before him so we are excited to be here.
- **Commissioner Overcash:** We appreciate you being here. Have you been well received?
- **Jennifer Pawlikowski:** Yes. I have spent more time at this Town Hall than I ever have.
- **Manager Miller:** That is because we are so welcoming.
- **Mayor Belangia:** Thank you all, appreciate it.
- **Josiah Hoffman:** My name is Josiah Hoffman. I live at 1204 Lupton Drive and I have never done this before so I am not sure about the protocol. Maybe I should have been sworn in or something.
- **Manager Miller:** If you want to comment, I need to swear you in. Do you swear or affirm that the evidence you shall give to the Board in this action shall be the truth, the whole truth and nothing but the truth so help you God.
- **Josiah Hoffman:** Yes. I am here representing some of my neighbors and we are in opposition to the zoning change. We have sent letters to the Board and I just wanted to say, first of all, welcome to the community and we are glad you are here and we appreciate the services that you are to provide us. We are glad that you are grandfathered in but we do not want a zoning change. We just are very worried the (inaudible) commercialism that might happen. As long as you are grandfathered in, we are fine with that and this is, probably a half dozen of my neighbors that I talked to that I am representing that agree with this, not all of them but this is what I am here to say. Again, we are glad you are here but we don't want a zoning change.
- **Mayor Belangia:** Thank you.
- **Manager Miller:** You are directed by the Growth Management Ordinance, specifically you and the Planning Board, that you may not take into consideration any promises or reservations for use of the property proposed by the applicant. You must consider all of the potential uses that are allowable in an MU zone. The other thing that you need to pay attention to is that you are not under the same burden of proof that you are during a Special Use Hearing which is the public hearing that you are all so very much used to. This is a – you are to make that decision on the public good, however broadly you would define that.
- **Mayor Belangia:** Do I have a motion to close the Public Hearing.
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- **Commissioner Simmons** made a **MOTION** to close the Public Hearing. Seconded by **Mayor Pro Tempore White**. Motion passed 4-0.
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- Mayor Pro Tempore White stated that the Planning Board had recommended against rezoning and finds no reason to go against the recommendation of the Planning Board.
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- **Mayor Pro Tempore White** made a **MOTION** to adopt what the Planning Board has put forth, which is leaving the property R-1 with the grandfathered issues in and not rezone to MU. Seconded by **Commissioner Overcash**. Motion passed 4-0.”
- **NOTE: excerpts included to give background on documents reviewed by the Planning Board.**
- Our attorney notes you now have these letters (not notarized, nobody sworn in) Chair reminds PB that anyone speaking to the rezoning had to have been sworn in. Letters contained in the letter from the current M&J Marine attorney were people who did not speak to the Board at the previous rezoning request in 2018.
- Our attorney told the Manager to take the letter to the PB and review the letter compared to previous action, and then bring that back to him.
- In addition, a notice of violation (complaint-based) was issued to M&J Marine for doing work on the un-rezoned lot and required the boats being worked on to be moved back into their lot. Owners complied:

April 15, 2019

**FINAL NOTICE OF ZONING ORDINANCE VIOLATION**

Dear Mr. and Mrs. Pawlikowski,

This letter will serve as the **FINAL NOTICE** pursuant to Section 228.2 of the Town’s Growth Management Ordinance (“GMO”) regarding violations at the real property located at 1216 Lupton Drive, Oriental, N.C., and further identified by Pamlico County Tax ID Number J082-320-36 (“Subject Property”), owned by AXL Properties, LLC (“Owner”). The Town received a complaint that the Subject Property is in violation of the GMO, specifically regarding the use of the residentially-zoned property to provide commercial boat repair/cleaning services.

**VIOLATION #1:**

After investigating the complaint, I have confirmed that the Subject Property is located in an R-1 residential zoning district, and is being used to provide commercial boat repair/cleaning services. Prior to the zoning change to an R-1 residential zoning district, the Subject Property was used for storage and parking. Such uses constitute an existing non-conforming use, and may be continued. However, using the Subject Property to provide commercial boat repair/cleaning services violates Sections 50 and 66 of the GMO.

**CORRECTION REQUIRED:**

You are hereby required to bring the Subject Property into compliance with the GMO by discontinuing your use of the Subject Property to provide any commercial services, or to otherwise use the Subject Property in violation of the GMO, within ten (10) days of the date of this letter.

**FAILURE TO TAKE CORRECTIVE ACTION:**

If you fail to take corrective action to bring the Subject Property into compliance with the GMO as provided above, civil penalties shall accrue at the rate of \$50.00 per day pursuant to GMO Sections 229.2 and 229.4, which provide in part as follows:

“Section 229. Penalties and remedies for violations.

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229.2 Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use permits, shall also subject the offender to a civil penalty of fifty dollars. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Section 228 (Procedures Upon discovery of Violations) and did not take an appeal to the Board of Adjustment within the prescribed time.

229.4 Each day that any violation continues after notification by the Land Use Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

**VIOLATION #2:**

After investigating the complaint, I have confirmed that the Subject Property is located in an R-1 residential zoning district, and is being used to provide commercial boat repair/cleaning services that include sanding and pressure washing with no method of capturing runoff as required by Section 251 "Commercial Boat/Ship Yard" of the GMO.

**CORRECTION REQUIRED:**

You are hereby required to bring the Subject Property into compliance with the GMO by discontinuing your use of the Subject Property to provide any commercial services, or to otherwise use the Subject Property in violation of the GMO, within ten (10) days of the date of this letter.

**DECISION MAY BE APPEALED:**

Pursuant to Section 228.2 of the GMO, please be advised that this decision may be appealed to the board of adjustment pursuant to the provisions Section 200 of the GMO. If you wish to discuss the matter, please contact me at 252-249-0555. Once you've brought the Subject Property into compliance as specified above, please contact me so that an onsite inspection can be conducted. Your cooperation in complying with the GMO is appreciated.

Sincerely,



Diane H. Miller  
Land Use Administrator/Manager  
Town of Oriental

- Requestors are welcome to try again for a rezoning- the same that had been requested in 2003 and 2018, both of which were denied. The lot in question being rezoned removes a grandfathered buffer between the most restrictive and the least restrictive use array. The Town Board is under the requirement to look at AL possible uses in the zone being requested to make a decision. They are under no burden of proof, as in a Special Use Permit.
- Commissioner Roe asked about the letters- new letters are from those who use the services there. Speakers at the Public Hearing were residents who received letters because they owned property within 150 ft of the property in question.
- Chair notes applicants are not asking for rezoning, they are asking for a letter that adds to the previously noted grandfathered uses. Chair notes the use was not legal by the previous owner and he did not claim it at the time of the sale. Letters seem to be hearsay.

- Commissioner Overcash notes that this decision sets a precedent, like it or not, and people who purchased R-1 want it to remain R-1.
- LUA notes and Chair confirms the letter from the attorney confirms that they are currently doing things they know they are not supposed to be doing, and want that to be allowed. Member Quigley notes that just because you did it, doesn't mean it was allowed. Discussion concerning the temporary structure that was not allowed to be erected anyway needed to be removed and they agreed to it.
- Member DeWeese notes the letters are from a different population- the ones who use the service, but do not live next to the service.
- Commissioner Roe asks why all of a sudden do they need additional space? An agreement was in place between Arnfast and the adjacent Marina for space- so boats were being worked on in property owned by Frazer, but the M&J Marine chose to discontinue that agreement, so their space was decreased.
- Discussion turned to Zimmerman's zoning. Different- they had several properties on either side of Zimmerman's are zoned MU- set at the original zoning by the owners at the time.
- Planning Board is clear that they see no reason to add additional grandfathering- these discussions will be forwarded to the attorney as requested.

**Other Business not on the agenda:**

- Member Willi has resigned. It would be good for the PB to try and find someone who has the different perspective that Marc brought to the Board, to be able to look at many sides of all discussions. If members would forward any possible candidates to the Chair, we can hopefully appoint a new member soon.
- **ADJOURN:** Chair Rahm asks for a MOTION to adjourn. makes the MOTION. Member seconds. 3-0.

**Next Meeting scheduled for November 1, 2022- 1:30PM**

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Julie Rahm, Chair

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Diane H. Miller, Clerk to the Board/LUA