



ORIENTAL PLANNING BOARD MINUTES

Special Meeting

Friday, July 28, 2017 – 12 P.M.

Oriental Town Hall – 507 Church Street, Oriental, NC

Chair called the meeting to order at 12:03PM.

Present: Vice Chair Lohmar Member Flaherty, Member Aeschleman, Manager Miller, Member Knapp Commissioner Overcash, Commissioner White, Commissioner Price

Absent: Chairman Dammeyer

Members of the Public

- **SINGLE AGENDA ITEM- Comment to be forwarded to Town Board on Fulcher Point CAMA application.**

Vice Chair Lohmar called the meeting to order at 12:03 PM and noted the purpose of the meeting.

She turns the floor to the Manager to lay out the process. Manager Miller notes the project as submitted to CAMA is one project. The normal process is to get the CAMA permit first and then to the Town. Because of the size of the project, Mr. Fulcher was encouraged to come to the Town first. In the Town's Ordinances, the project was split into two projects- one that required an LUP and one that required an SUP.

There was one set of plans submitted because it is one project in CAMA's eyes. The LUP is checked against the regulations. The Manager cannot object to a permit because of environmental concerns. Once the project goes off the land into air or water, environmental agencies regulate. Because we do not have air or water regulations, we cannot impose restrictions on things we do not regulate.

So, the Land Use Permit was the first document-(attached). Once the LUP included the boat washdown, the Manager noted that the SUP must be filed. She acknowledged that she should have lined out that component at that time when it was removed to a separate application, but also noted that an illegal use, even signed by the Land Use Administrator, is an illegal use and is not legally defensible.

The signed Land Use Permit is for everything else listed. Noting that we do not also have stormwater regulations, we cannot restrict it. Mr. Fulcher could resubmit the project not including the stormwater and we could not require him to install it because we do not regulate stormwater, other than drainage cannot affect other properties.

Our GMO allows the other things by right in the permissible use table, as long as it fits onto the parcel concerning setbacks, height restrictions, etc.

The SUP process was agreed to- with conditions- washwater collection, shrouded, recorded discharge removal, including final destination, pumpout, roofed building, CAMA compliance, etc.

In the latest revision, Mr. Fulcher pulled the SUP- along with its conditions. There is nothing in the GMO that requires a building to be roofed. When we do not have a regulation, it goes to the next level. Oddly enough, there is no state building code that requires a roof. Shrouding the roof according to EPA laws and best practices recognizes shrouding as acceptable enclosure. What we need to take away is that we can only impose restrictions according to what we already regulate. As the roof is not connected to the boat wash, the only legally defensible position for us was to attach to the SUP that condition following Mr. Fulcher's offer to roof the building.

Our frustration is that we are aiming at a moving target.

CAMA noted that we had responded. They took our request to Mr. Fornes for clarification as our response to CAMA. Manager Miller noted to CAMA that was not our response with questions to the engineer so that we cannot make an informed response on this moving target. She went through the opportunities for response- that the Planning Board meets today, and the Town Board August 1, and that the Town would require an opportunity to respond when the target stops moving.

Having said that, comments taken today will be forwarded, and any changes to the plan that make comments irrelevant can be removed by August 1, and that the response will be forwarded when complete.

Vice Chair Lohmar notes that she is reserving the right to cut off rants and any irrelevant or duplicative responses.

Mac Ernest: (distributed his comments)

contends that the GMO requires a new application- 6 components- most recent letter from Fulcher changes 3 of them.

Vice Chair Lohmar noted that the boat wash was removed immediately- a year ago.

Manager Miller noted that Mr. Fornes was informed this week that Stormwater was part of the original application. The attorney noted that the applicant can pull the existing application and re-file without those.

Dr. Ernest notes on the one set of plans notes the enclosed roof. Once again Manager Miller notes that to CAMA it was one application, and so only had one set of plans, which includes the roof, because it is on the SUP.

Bob Arrington: We do not know what we are commenting on- no revised plans- we're waiting to see what he's doing. How can we comment without a confirmation of the plan on the ground. He suggests that we contact CAMA and tell them we do not want that project in our harbor.

Bonnie Knapp: Everything applied for is permissible in the uses. **Vice Chair Lohmar** notes that the comment period is to comment on what we know, and this has been made available to the public on several occasions while going through the process.

Marshall Tyler: Understand the environmental issues are beyond the purview of this jurisdiction, but understand that the building was never permitted. **David White:** was not

compliant and imposed a fine, and the Planning Board was in the middle of changing those limitations. Asks Manager Miller if a permit was issued. Manager Miller states that building permits are a County function, so we are not in the middle of that process- we approve plans, and then they go to the County for permits to build to those plans. **Keith Smith** interrupts and says its not true there were never any plans filed for the building, look it up. *[POST-MEETING NOTE: Manager Miller sent staff after the files for the building during the meeting and a building permit was in the stack of paperwork for that building- Permit # C-12-05-1371, signed 12/06/2005, handed to Vice Chair Lohmar]* **Mr. Tyler** asks if there are any regulations concerning height of the lift. He also asks about noise regulations and is informed that is already in place. Concern about Fire Department being able to deal with emergency issues at that height, and other accidents concerning large boats on land.

Carol Small: Concerned about the pollution. If there is any way to stop pollution in the Harbor Waters. The EPA is not interested in Oriental's Harbor. The EPA was likely notified and nothing happened. Not a good thing for the harbor to have those contaminants. Private citizens can't do it. If the building was enclosed and all of those operations were enclosed, pollution would be contained.

Vice Chair Lohmar summarizes concerns: pollution and not being held to same standards as others. **Manager Miller** notes that we could include a request that we be given contact points to report suspected violations. **Commissioner White** asks that we request to hold the operation to Best Management Practices of Clean Marinas.

David Cox: raises questions about a major oversight: objection sent to CAMA on the basis of encroaching upon and restrict rights within the planned subdivision and riparian access rights of non-waterfront property owners (brings documents-attached)- This action violates the notification of adjacent property owners as required by law.

Gordon Pickett: Has already made comments to CAMA and had response. Similar to Carol's comments- the Harbor already stressed- fishing boats, pleasure boats- always small spills as there are fueling stations- try to limit, but it happens. Don't need to increase the stress by permitting the operations. His comment to CAMA was to find another site for this operation. Talked to other boatyard owners and questioned CAMA if they are applying same standards to this project as to Deaton's and Sailcraft.

Marilyn Stern: Bought home in 1978, we were commercial fishermen, sailing capital and jewel on the coast- don't want anything to happen. The Town has invested great funds in two docks and restroom facilities. Wouldn't want prospective house buyers or overnight guests at the town dock with that kind of noise going on.

Joanne Reid: Speaking on behalf of Chris Fulcher- works hard and loves his family, he doesn't have time to come to these meetings as he's working. He follows rules and tries to comply. He has the same values as everyone else. If you took grievances to him, he would make the effort to comply. Wouldn't want to wake up and the shrimp boats all gone. We need employment provided. He is not our enemy. He lives here too.

Mary Duffie: The building built higher than the height limit, and that's why the roof is off and an eyesore. Who will ensure a roof is closed if allowed a retractable roof during operations?

Manager Miller noted the passdown, and that she had had that conversation with the engineer noting that they do make the additional setbacks- up to 48.5. Apparently, the height limit with allowance still isn't enough. Member Knapp asks if they did say what height they WOULD need to make it work- Manager Miller indicated that he did not. Manager Miller noted the Variance procedure was discussed and the public health and safety issue might be addressed by a small variance in height limits.

Art Tierney: On the Harbor Waterfronts Committee- 100% against this project. Those boats are NOT registered here- we do not get those tax dollars. Charleston SC was the same- with a paper mill. Also a steel mill- made a u-turn and ended up in Oriental. It's a fishing village- if this goes through, no town has permitted a shipyard built within its limits. Vice Chair Lohmar asks the difference between shipyard and what happens there today. What is the difference- 300 ton travel lift- you don't pull a boat that size out of the water unless you are going to do extensive work- and then that invites other large boats for additional work.

UNRECOGNIZED: Go to Jarrett Bay and see what a large Boat Yard does to a small village.

Frank Roe: Mr. Fulcher is a reasonable businessman and wants to run his business, want the law enforced. He supports the granting of the permit.

Jennifer Roe: Manager Miller summed up a lot of what I wanted to say. Regulations change. During her restoration, many times the (previous)Manager called, with complaints over her regulation- things change during construction. History- the roof on that building- all citizens need to be treated equally. That point has been operating since the 1800s, working community. This should not be personal opinion, but rather comparative to the regulations. Having said that, the height changed mid-project. We should have done the right thing then and didn't. It was permitted, by the way.

Toni Leavitt: Requirements for green space, sidewalks, etc- he put in gravel with no paperwork on the parking lot, and refused to follow rules that require him to file that paperwork- just speaking to the man's character.

Ted Mead: Retired Engineer- if you think that point will be quiet, you've never been to a shipyard. The first thing I always did when I went to a shipyard was put in earplugs. This facility should be someplace else.

Vice Chair Lohmar asks members for their comments: We have discussed stormwater runoff, clean water, stresses to the harbor, anything brought onto land for work. **Member Aeschleman:** Repairing boats on water is very different that repair out of the water, other boatyards do that work, and the noise ordinance is already in effect.

Vice Chair Lohmar notes one of the concerns is lifting boats out- no washdown- how can they be worked on without being washed down first? Once that starts, it becomes a boatwash, can't do one without the other. Member Knapp notes that every boat pulled is immediately washed still in the sling- SOMETHING will be done. Concerned about sanding, painting on land without capture if stormwater system not included.

Mr. Pickett: What is the Town's response if he does not comply with noise ordinance? You can't shut down the boat yard. Manager Miller says we most certainly can.

Vice Chair Lohmar notes that past violations have been recorded and that should be part of the Town's response. **David White** asks that CAMA do a complete reset so we know what we are responding to. Also that he came to us with a complete system to deal with the operations. We have to implore CAMA to work on the total package. History should be documented on not complying with Town Ordinances.

Commissioner Overcash asks if there were not new restrictions on boat washes. **Manager Miller** notes that the two boat washes permitted this year (new facilities) must comply. In addition, older operations have a limited schedule in which to become compliant with new regulations.

Mark Barrow: are we missing that we do not have an option due to the regulations in place. Town is asking to become a good citizen and institute best practices.

UNRECOGNIZED:has copies of the petition being circulated. Offered copies. Sandblasting puts amazing amounts of pollution into the air.

Vice Chair Lohmar: Table of Permissible Uses lays out everything that you can do in which zones. People who have been here 30 years have had the opportunity to change things, that is the time to have something to say to prevent those uses. We have all been taking notes- we will compile those and forward to the Town Board for response.

ADJOURN Member Knappmade a **MOTION** to adjourn and Member Flahertyseconded. (4-0) Meeting adjourned at 1:28PM.

Cecily Lohmar, Vice Chairman

Diane H. Miller, Clerk to the Board

Approved __ / __ / __