



## **CURRITUCK COUNTY PLANNING BOARD**

### **April 13, 2010**

#### **WORK SESSION**

A work session was held prior to the meeting to discuss items on the agenda.

#### **REGULAR MEETING**

The Currituck County Planning Board met in the Board Room of the Historic Courthouse. The following members were present: Joe Kovacs, Manly West, Fannie Newbern, Lynne Wilson, John Wright, Jim Clark and Forrest Midgette. Absent: Susan Taylor and William Etheridge.

Ben Woody, Planning Director and Susan Tanner, Clerk to the Planning Board were also present.

Planning Board Chairman Midgette called the meeting to order.

Everyone stood for the Pledge of Allegiance and a moment of silence.

#### **APPROVAL OF AGENDA**

Mr. West motioned to approve the agenda as presented. Ms. Newbern seconded the motion. Motion carried unanimously.

- 6:15 p.m.        Work Session
- 7:00 p.m.        Call to Order  
                    Pledge of Allegiance and Moment of Silence
- Item 1            Approval of Agenda
- Item 2            Approval of March 9, 2010 Minutes

#### **PLEASE LIMIT PUBLIC COMMENTS TO THREE MINUTES**

#### **NEW BUSINESS:**

- Item 3            **PB 10-08 Tres Beau, Ltd. d/b/a Back Country Outfitters & Segway of the Outer Banks:** Request for a special use permit for an outdoor tour operator located at 102-A Austin Street, Tax Map 115B, Parcel 2P2B, Poplar Branch Township.
- Item 4            **PB 10-11 Tres Beau, Ltd.:** Request for a special use permit for a private outdoor recreational facility located at Wild Horse Lane, Wild Horse Estates II, Tax Map 99D, Parcel OPAR, Poplar Branch Township.
- Item 5            **PB 10-13 Richard Chapman:** Request to amend the Unified Development Ordinance, Chapter 2: Zoning Districts, Chapter 3: Special Requirements,

Chapter 8: Parking & Driveways, and Chapter 17: Definitions to allow Internet Sweepstakes Cafés and Electronic Gaming Operations in the GB and C zoning districts with a conditional use permit.

Item 6            **ADJOURNMENT**

### **APPROVAL OF MINUTES**

Mr. Kovacs motioned to approve the Planning Board minutes for March 9, 2010 as presented. Ms. Wilson seconded the motion. Motion carried unanimously.

### **NEW BUSINESS:**

**PB 10-08 Tres Beau, Ltd. d/b/a Back Country Outfitters & Segway of the Outer Banks:** Request for a special use permit for an outdoor tour operator located at 102-A Austin Street, Tax Map 115B, Parcel 2P2B, Poplar Branch Township.

Scott Trabue appeared before the board.  
Mr. Woody presented the following case analysis to the board.

**[Link for case analysis for PB 10-08 Tres Beau, Ltd. d/b/a Back Country Outfitters & Segway of the Outer Banks](#)**

### **DISCUSSION**

Mr. West asked Mr. Trabue how many segways he has.

Mr. Trabue stated approximately 15 segways, 8 are used for the in town tours and 5 in off road area tours. All tours are guided.

Ms. Wilson stated when she was doing horse training with the children at the Wild Horse Fund schoolhouse she was impressed with the educational component of the tours.

Mr. Trabue stated the in town tours are historical and the off road tours are ecological as well as historical.

### **ACTION**

Mr. Clark move to **approve** PB 10-08 with the findings of fact and staff recommendations included in the case analysis. Ms. Wilson seconded the motion. Motion carried unanimously.

**PB 10-11 Tres Beau, Ltd.:** Request for a special use permit for a private outdoor recreational facility located at Wild Horse Lane, Wild Horse Estates II, Tax Map 99D, Parcel OPAR, Poplar Branch Township.

**Mr. Wright made a motion that he excuse himself from this item on the grounds he is a property owner in Wild Horse Estates.**

**Ms. Wilson motioned to allow Mr. Wright to be excused from this item. Mr. Clark seconded the motion. Motion carried unanimously.**

**Mr. Wright left the room.**

Scott Trabue and Jay Bender appeared before the board.  
Mr. Woody presented the following case analysis to the board.

**[Link for case analysis for PB 10-11 Tres Beau, Ltd.](#)**

## **DISCUSSION**

Mr. West asked if the vehicles and trailers are parked at the park during the tours or if they go back to Corolla.

Mr. Trabue stated the vehicles and trailers stay at the park during the tours. The landowners have established a parking area for the vehicles and trailers.

Mr. West asked if the path that the segways use is sand.

Mr. Trabue stated yes.

Ms. Wilson asked Mr. Trabue what ramp he uses off the beach to access.

Mr. Trabue stated twenty-one.

Ms. Wilson stated she understands the property itself is a protected area for the wild horses. If the Wild Horse Fund and the horses are the steward of this sanctuary the presence of tours is a concern. Ms. Wilson asked for clarification between the Conservation & Limited Use Easement Agreement and covenant as to Mr. Trabue being allowed to transverse over the property.

Mr. Trabue stated in the covenants it states Corolla Outback Adventures can grant right of access to "others". Mr. Trabue stated he has a contract with Corolla Outback Adventures.

Mr. Bender confirmed this.

Ms. Wilson asked Mr. Trabue if he has had any problems when taking the segways out and wild horses.

Mr. Trabue stated they view the horses from a distant. The segways do not startle the horses and the tours move along at a slow rate.

Mr. Clark asked Mr. Trabue if he has had any trouble with motor boats where the kayaks tours are in the canal.

Mr. Trabue stated the canal is so shallow that no one brings their motor boats in.

Mr. Clark asked Mr. Woody is a private business allowed to use the boat ramp at the park to launch kayaks?

Mr. Woody stated he would have to ask the Parks and Recreation Director.

### **ACTION**

Ms. Wilson move to **approve** PB 10-11 with the findings of fact and staff recommendations included in the case analysis and the following condition:

- Clarification of the conservation easement when it goes before the Board of Commissioners.

Ms. Newbern seconded the motion. Motion carried unanimously.

**PB 10-13 Richard Chapman:** Request to amend the Unified Development Ordinance, Chapter 2: Zoning Districts, Chapter 3: Special Requirements, Chapter 8: Parking & Driveways, and Chapter 17: Definitions to allow Internet Sweepstakes Cafés and Electronic Gaming Operations in the GB and C zoning districts with a conditional use permit.

Alex Rich, Herbert Mullen, Louise Harrell, Sean Harrell, Jonathan Sutton, Travis White, Richard Chapman, Ron Rose, and Angela White appeared before the board.

Mr. Woody presented the following case analysis to the board.

**[Link for case analysis for PB 10-13 Richard Chapman](#)**

### **DISCUSSION**

Mr. Rich stated he represented Mr. Chapman in Elizabeth City when he went through the process of adopting Internet Sweepstakes Cafes. Mr. Rich stated Mr. Chapman would invite you to his other locations in Williamston and Washington to get a better feel for how they operate. Mr. Rich stated the cafes are safer as a primary use vs. an accessory use because of the control and supervision. The space they are applying for is approximately 2,000 sq. ft. and they would be willing to reduce the number of terminals from 100 to 30. They are willing to work with staff on this. Mr. Rich stated the cafes do fill a vacant store front and they pay utilities and maybe bring four to five new jobs to the county.

Mr. Mullen stated he represents Southland Trade. Mr. Mullen stated the following:

- Recommending accessory use
- Grandfather existing businesses
- Maximum of fifty machines
- Fee of \$500 per machine/per year
- Creates jobs

Mr. Mullen stated Southland Trade paid \$338,529 in taxes last year to Currituck County which helps reduce the burden to each landowner in the county. The General Assembly may discuss this topic at their May meeting. He is recommending the request be deferred until further information can be obtained.

Mr. West asked in addition to the \$500 fee per machine, what other source of revenue is generated.

Mr. Mullen stated he did not know.

Mr. Woody stated he spoke with the county attorney and determined Internet Sweepstakes Cafes are currently not permitted in Currituck County. Just because gaming machines are added to an existing business without permits does not mean the machines are grandfathered. If the county felt strongly they could also amortize the use similar to how horse tours were amortized.

Ms. Harrell stated she is from Southland Trade. Ms. Harrell stated they have 30 machines and they have been a nice addition to their business. As a result of the machines being there last year they made donations to the sheriff and fire departments, as well as Relay for Life.

Mr. Harrell stated he is also with Southland Trade and was there to answer technical questions.

Mr. Sutton stated since Southland has had these games they have hired eight extra employees and twelve more to be hired for a total of twenty employees. Mr. Sutton stated even though Currituck County is not receiving direct taxes they are benefiting from twenty new employees in the county who buy gas and car tags.

Mr. White stated he is with Southland Trade. The games are segregated from the other part of the store. They provide 24 hour security on site and never had an incident.

Mr. Chapman stated he has several internet café that he operates. They are in a controlled climate and very low key. They are very well run. Mr. Chapman stated they have the true sweepstakes machines that have a predetermine list in what you win. You buy your time to play the machines, check internet or email. Most places employ five to eight employees and are a very upscale business.

Mr. West asked if you actually win cash.

Mr. Chapman stated yes.

Mr. Kovacs asked how you pay for it.

Mr. Chapman stated they use your driver license number and then you give them the amount of money you want to buy time.

Mr. Clark asked if they accept credit cards.

Mr. Chapman stated no.

Mr. Kovacs asked what the odds in winning are.

Mr. Chapman stated the odds are posted on the machine.

Mr. West asked could you lose more money than what you have put in.

Mr. Chapman stated no.

Mr. Rose stated Mr. Rich approached him about renting some of his space to Mr. Chapman to allow Internet Sweepstakes Cafes. Mr. Rose said he was not familiar with them and he did some research and looked at the one in Williamston and was very impressed. With the way the economy is it is a good thing. Mr. Rose stated he is in favor of it.

Ms. White stated she is the co-owner of the Tobacco Barn. It has been a benefit to them having the machines by keeping employees at full-time instead of part-time this winter. Ms. White stated they have hired two part-time employees and have not had any incidents. The machines have been good for business.

Mr. West asked Mr. Harrell if their operation is similar to the way Mr. Chapman's operation is.

Mr. Harrell stated they are similar. With the set up they have you would have a card which would be scanned at the terminal and what you are purchasing is phone card time.

Mr. Wright asked if the action that the Legislature takes will this dictate what the county does.

Mr. Woody stated that it could but it is hard to know what the General Assembly is going to do. Mr. Woody stated if the General Assembly allows Internet Sweepstakes Cafes it does not preclude the county from prohibiting them.

Mr. Midgette asked Mr. Woody to explain why different chapters of the Unified Development Ordinance had to be amended with this request.

Mr. Woody explained the process.

Mr. Kovacs asked if this was approved or denied what will happen to the establishments that already have them.

Mr. Woody stated this would need to go to the Board of Commissioners and they will need to deliberate two things, (1) does the county allow this request, and (2) how to regulate as an accessory use or if at all.

Mr. Kovacs asked if the businesses that have gaming as an accessory use now, are they operating illegally because they have no approval for that use.

Mr. Woody stated they are operating without approval. They would need to come in and amend their zoning permit to establish this use.

#### **ACTION**

Mr. Kovacs recommended that PB 10-13 be tabled so the County Attorney can review the information. Mr. West amended the motion by recommending Mr. Mullen be included in county meetings on behalf of Southland. Mr. West seconded the motion. Motion carried unanimously.

#### **ADJOURNMENT**

With there being no further business to discuss, Mr. Clark motioned for adjournment. Mr. Kovacs seconded the motion and the motion carried unanimously. The meeting adjourned at 8:35 p.m.

Respectfully Submitted,

Susan M. Tanner/s/

Susan M. Tanner  
Clerk to the Board