

**TOWN OF EMERALD ISLE  
PLANNING BOARD MEETING  
MONDAY, APRIL 26, 2010**

Chairman Jim Craig called the meeting to order at 6:00 pm. Members present were: Jim Craig, Ken Sullivan, Bill Keadey, Pete Wachter, Bob Smith and Eddie Barber. Also present was Kevin Reed, Planning and Inspections Director, Peggy Grammer, Permit Technician.

A motion was made by Eddie Barber to excuse Tom Kelly from the Planning Board meeting. The motion was seconded by Bob Smith and passed unanimously (5 to 0).

A motion was made by Bob Smith to approve the minutes of the Planning Board meeting held on March 22, 2010. The motion was seconded by Pete Wachter and passed unanimously (5 to 0).

Mr. Reed advised that for the month of March, the Planning and Inspections Department had issued no permits for new homes and a total estimated value for all permits in excess of \$459,615. This brings the fiscal year total to over \$7.5 million in construction value and the department has collected approximately \$85,306 in permit fees.

**Consider a discussion regarding businesses known as “Internet Cafes” and “Electronic Sweepstakes” and how such uses are regulated by the Town’s Unified Development Ordinance (UDO).**

Mr. Reed indicated that the Town staff would like to discuss with the Planning Board a “new business” known by names such as “Internet Cafes” and “Internet Sweepstakes” operations. These businesses typically operate by selling a customer “internet time” and when the customer uses the computer terminal they either win or not based on predetermined odds. Mr. Reed indicated that while North Carolina law generally prohibits gambling operations, the law was written in a way that specifically identified coin-operated machines. “Internet Sweepstakes Cafes” have found a loop-hole in State law that they are not coin operated. Mr. Reed advised that there are two efforts underway to address this loop-hole. One is currently in the court system and will hinge on whether or not the courts rule that such uses are either “illegal gambling” operations or some type of legal land use. The second effort is likely to be addressed in the General Assembly by having them modify existing statutes to specifically make such uses illegal or established parameters under which they may operate. Mr. Reed indicated that since they are currently deemed to be legal, then they should be appropriately regulated from a zoning perspective.

Mr. Reed informed the Planning Board that Town staff has received at least one inquiry wanting to establish such a business in Emerald Isle. Town staff advised that such a use was not permitted since it is not specifically defined or listed in the Unified Development Ordinance (UDO) as a permitted or special use. Mr. Reed indicated that staff is comfortable with this interpretation; there is the potential for this determination to be challenged. Communities that permit arcades and similar uses in their development regulation are finding it difficult to prohibit such a use since the “internet café” use is similar to an arcade or similar gaming establishment. Currently the Town’s UDO, specifically Table 4.1.2, “Table of Permitted and Special Uses”, does list as a

permitted use in Business (B), Village East (VE) and Village West (VW) Zoning Districts the following: “Amusement enterprises, indoor, similar to billiards, pool, shooting gallery, roller rink, dance hall”. Mr. Reed indicated this has been interpreted to allow arcades and similar gaming establishments, thus therein lays the potential conflict with an “internet café” or similar use and whether or not it can be prohibited under the current language in the UDO. Town staff would like to have better guidance on these types of business uses by having the UDO specifically define and regulate them.

Mr. Reed indicated that Town staff would like to work with the Planning Board to develop specific regulations for governing these types of uses by developing amendments to the UDO. Mr. Reed indicated such amendments would involve defining such a business use; determining whether they should be a permitted or special use, or simply not allowed; which zoning districts they should be permitted to locate and operate in; separation from similar uses; parking requirements etc. Mr. Reed indicated that the development of these regulations would likely involve at least one if not two more meetings with the Planning Board before making a recommendation on the issue to the Board of Commissioners. Mr. Reed suggested the Planning Board recommend a moratorium to be adopted by the Board of Commissioners to prohibit such uses until the issues can be further resolved. Moratoriums are permitted under the General Statutes provided the ordinance adopting such is specific as to the rationale for the moratorium, its scope and duration, and what actions the Town plans to take to address the needs that led to the imposition of the moratorium.

Mr. Rodney Dawson, owner of the K & V Convenience Store, was in attendance and indicated that he had two such machines in his establishment. Mr. Dawson questioned why the Town was trying to regulate them when there was the NC Lottery throughout town and how a moratorium might affect his business. Mr. Reed advised that the moratorium would not affect his ability to continue to operate his two sweepstakes machines, but if the moratorium is passed by the Board of Commissioners, then he would not be permitted to expand his number of machines during the moratorium. Ken Sullivan indicated that he saw no difference between the NC Lottery and sweepstakes cafés. Eddie Barber indicated that as a business owner here in Town that he could see the need for appropriate regulations for these types of businesses. After further discussion, Eddie Barber made a motion to propose a moratorium of 180 days to be adopted by the Board of Commissioners. This motion was seconded by Pete Wachter and passed (4 to 1).

There being no further business to come before the board, a motion was made by Bob Smith to adjourn. The motion was seconded by Eddie Barber and passed unanimously (5 to 0). The meeting was adjourned at 6:30 PM.

Respectfully submitted by:

Peggy Grammer, Secretary  
Town of Emerald Isle Planning Board