TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

January 27, 2021

TO: Mayor and Board of Commissioners

FROM: Debora P. Diaz, Town Manager

REF: Public Hearing

1. Public Hearing

A. Conditional use site plan – Bermuda Bay PUD – Section 200A – amendment site plan for two (2) four (4)-story multi-family structures and associated site improvements (Attached PH-1A)

BB Southampton Mews, LLC has submitted plans for the proposed construction of two, four-story multi-family structures, 112 units of either one or two bedrooms each, and associated site improvements.

On December 15, 2020, the Planning Board reviewed and recommended approval of this conditional use site plan. As a conditional use, Chapter 153, Zoning requires a public hearing before action can be taken. At its January 11, 2021, meeting the Board of Commissioners scheduled this public hearing. The Town has received emailed public hearing comments, which are attached. Any public comments received after the distribution of the meeting packet will be forwarded to the Board and also included in the record of the meeting.

Due to the requirement for the Board to receive public comment for 24 hours following this electronically-conducted public hearing under N.C.G.S. 166A-19.24, no action can be taken at this meeting; if appropriate, based on BOC direction, action will be scheduled for the Tuesday, February 9, 2021, meeting.

info

From: Keith Pagano <kpagano@paganomarks.com>
Sent: Thursday, January 14, 2021 9:37 AM
To: info
Subject: Public Comment re "Somerset" by SAGA 1/27/2021 Hearing

Keep Somerset (South Hampton Mews) as originally designed.

Thank you,

Keith A. Pagano, Esq.
PAGANO & MARKS, P.C.

Use this link to schedule a call or meeting
https://calendly.com/kpagano

Phone: 804.447.1002
Fax: 804.562.5924
4510 S. Laburnum Ave
Richmond | VA | 23231

PAGANO&MARKS
THERE FOR YOU IN YOUR TIME OF NEED

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info

From: Maria Hester <maria.hester52@gmail.com>
Sent: Thursday, January 14, 2021 10:30 AM
To: info
Subject: Bermuda, Somerset Mews

As a homeowner in Bermuda Bay, the plans submitted by Saga are a concern. This will drastically increase the use of Bermuda Bay Drive and concerns for safety are paramount.

Before the new use is approved, what guarantee will homeowners have that we well be able to safely use or evacuate the site with a single road? Also the density is substantially different from original plans. Further, parking is a concern as the parking situation currently is tenuous at best with this added density, people will park on major thoroughfares creating more safety concerns.

Maria Hester
571-241-1644

Please pardon any errors, typing on a mobile device.

info

From: Slocum, Richard S LCDR <Richard.S.Slocum@uscg.mil>
Sent: Thursday, January 14, 2021 10:35 AM
To: info
Cc: mrslocum94; MSlocum
Subject: SOMERSET

To whom it may concern,

My wife and I have worked very hard over the years to finally afford a piece of tranquility in the Outer Banks. We spent a significant amount of money to have a place to escape to with our family and unwind. We wanted to get away from the city life. Your proposed plan to allow a mega apartment complex would bring the city into our back yard and chase us out.

The decision to allow SOMERSET to build the mega apartment complex would be a detriment to Bermuda Bay homeowners.

If you vote this planned change through, I plan to orchestrate a class action lawsuit against the town of Kill Devil Hills and sue for the mental anguish you have caused and the loss of property value and future interest in our property.

Richard S. Slocum
1500 Bailey's Bay, Kill Devil Hills, NC
757-837-8141

info

From: Randy Goncalves <va.tech@verizon.net>
Sent: Thursday, January 14, 2021 11:59 AM
To: info
Cc: Carol Goncalves
Subject: Somerset Proposed Developer Changes

We want to voice our support against the rezoning of Somerset to allow apartments. We feel that the allowance of apartments in the middle of a community of homeowners will only adversely affect the property values of anyone in close proximity.

The inclusion of apartments will force many to sell their condos at a lower price because of the impending loss in property values and the already overburdening and increasing cost of our HOA fees.

We bought here 2 years ago trusting that this area would be developed as condos. If we knew the developer would do this to us, we never would have bought here.

I'm sure that there will be pile driving associated with the construction of multi-story construction. Our unit will be within 200 yards of the first unit. Undoubtedly, we will experience cracking in our slabs and foundations as a result.

We know the OBX needs apartments but there are areas where apartments already exist that would be more appropriate. The smartest way for the planning board to move forward would be to work for increasing property values rather than hurting them. We implore you to reject the developer's request to change the existing plan.

Thanks,

Randy and Carol Goncalves
1324 Devonshire Rd.

info

From: Don Lovett <hanovergm6@gmail.com>
Sent: Thursday, January 14, 2021 12:42 PM
To: info
Subject: Somerset Comments

There are a number of trees between where I perceive the buildings and parking will be ... and Bermuda Bay Blvd. I would like to see such trees as can be preserved left standing to provide a visual buffer between Somerset and 1700 Paget Rd, the 12 unit condo right across the street.

If that's not feasible, I'd like to see new, fast growing trees planted just beyond the sidewalk alongside Bermuda Bay Blvd, to accomplish the same purpose. Leyland Cyprus, for example.

Regards,

Don Lovett
1700 Paget Road, A1
KDH NC 27948

11195 Eagle Watch
Smithfield, VA 23430

757-647-9373
HanoverGM6@gmail.com

info

From: Mike Greco <m.greco98@yahoo.com>
Sent: Thursday, January 14, 2021 7:40 PM
To: info
Subject: Bermuda Bay PUD

BOC,
My name is Mike Greco and I own a single family home at 1512 Bailey's Bay Rd in Devonshire at Bermuda Bay. I purchased my home in an established recorded PUD with the knowledge that future development would follow the approved guidelines and restrictions. The proposed PUD change by SAGA to build two multi unit complexes for long term renters is not aligned with PUD guidelines or restrictions. SAGA has a right to develop the land they purchased within the Bermuda Bay PUD however, they must abide by the existing approved PUD and more importantly respect the rights of current homeowners within the Bermuda Bay PUD. I am asking the BOC to please protect the vested interest of the Bermuda Bay homeowners and deny SAGA's proposed PUD change to build multi unit long term rental complexes. And enforce the existing PUD as it was intended.

Sincerely,
Mike Greco
1512 Bailey's Bay Rd
Devonshire @ Bermuda Bay
252-229-4274

info

From: James Dillalogue <dillaloguej@comcast.net>
Sent: Friday, January 15, 2021 10:21 AM
To: info
Cc: James Dillalogue; Jan Dillalogue
Subject: Conditional Use Site Plan Review for Section 200A (Somerset)

Dear KDH,

We are writing to present our issues related to the proposed SAGA Somerset Project scheduled to be built in the Bermuda Bay Complex. Please find below our concerns:

- SAGA was not honest about the entire project. It seams there was some type of "sweetheart agreement" in place before the project was communicated to the public.
- Traffic will increase considerably at the corner of Bermuda Bay Drive & Colington Road. Also, the amount of traffic impacting the light that enters the road to the schools will create a dangerous situation for the teachers, staff and children.
- Ownership concerns: renters versus owners, the respect for the grounds, the community, increase in crime, and protecting the Bermuda Bay amenities.
- Why was the Land Disturbance Permit issued prior to the January 27, 2021 KDH meeting? Was this pre-arranged between KDH & SAGA?
- Impact on the open air
- This is a major change to the Bermuda Bay Concept:
    - All the existing owners purchased based on the community being a community of owners, not renters.
    - Changing the community into a Commercial Property versus a Residential Property
- Parking is a major issue within all of Bermuda Bay currently, and Somerset (although SAGA has added some additional parking) will only add to the parking issue. Although SAGA said sub-letting is not permitted, we all know this is going to take place. I ask KDH to review this request from SAGA to be realistic and use common sense on how this project is going to have a negative impact on the entire community of KDH, school traffic, rush hour traffic, re-cycle facility, recreational / tourist activities, and the Colington community.
- Creating an additional burden on traffic impacting police, fire, and ambulance vehicles
- This project will back up traffic onto Highway 158.
- Renters will use Veterans Drive (rear entrance) creating a traffic / safety problem for the school property and school walkers / school bikers.

Thank you and please take these concerns under consideration,

Jim & Jan Dillalogue
Cambridge Cove

info

From: Susan Smith <sbs055@comcast.net>
Sent: Friday, January 15, 2021 11:21 AM
To: info
Subject: Somerset

To Whom It May Concern:

We would like to request that no changes be made to the original Somerset site plan.

As homeowners in Devonshire Place, we have concerns about the possibility of adding more rental units to this area. Currently, the majority of the homes in our area are privately owned and that would no longer be the case if this project is changed to building apartments.

We anticipate increased problems with parking (which is already limited) and traffic, as well as a need for more security in our area. There is also the potential for property values being affected negatively.

We certainly feel that we are not alone in our concerns. Please take into consideration these factors and other comments/input from Bermuda Bay residents when making a final decision on this development.

Sincerely,
Susan and Bill Smith
1524 Bailey's Bay Road
804-520-1100

info

From:	Craig Voland <golfernut@zoominternet.net>
Sent:	Saturday, January 16, 2021 11:50 AM
To:	info
Subject:	Comments for KDH BOC in regards to Somerset Saga Plan for public meeting Jan 27 2021

To the Kill Devil Hills BOC,

I currently own a house in Bermuda Bay Devonshire Plan and have concerns over the approval to SAGA on the "Somerset" Conditional Use and the overall plans of Saga in and around are Community.

I see SAGA Construction has a Land Disturbance Permit for Section 200A of the Bermuda Bay PUD. Clearing and grading does not require the KDH BOC approval as they have the right to perform this action as long as they are in compliance with KDH Town Code Section 153.071 including providing an erosion control plan compliant with KDH regulations and acquiring a permit. The Conditional Use Site Plan Review for Section 200A is still under review for the Town of KDH and Building permits cannot be issued for these changes to the site plan unless approved by the KDH BOC.

My questions/comments are:

1. Why is SAGA being able to do what they want, when they want, with the Free Space in and around all of the Outer Banks, Specifically Kill Devil Hills. KDH's Green space is quickly disappearing! Has the D.E.P. been sent the plans? The Land will be disrupted beyond repair also possible water ways destroyed . The current Animals, living in the space will be forced out to find new area's to live! As I know and have seen, the area can contain many Spices of snakes: pit vipers, copperhead, water moccasin, canebrake, pigmy and eastern diamondback rattlesnakes. Will the end up in our yards ? I am not a snake fan they were put on earth for a reason!
2. Will this affect the Flood Plan for our neighborhood and surrounding areas?
3. If the plan goes forward Has SAGA and KDH BOC reviewed a Traffic Plan or have they done a in-depth Traffic Survey for the neighborhood? Has SAGA offered other options for new roads or traffic?
4. Has SAGA presented to the Board what Green space that will remain and what will be new Brick and Mortar?
5. The increase demand on Water and Waste Treatment for SAGA overall plans, has that been addressed?

I understand Growth for the overall area, Seems as if SAGA wants to own the OBX if you look around the overall area and has no plan to keep OBX overall Healthy!

Thank you for your time

Sincerely

Craig Voland
1325 Devonshire Rd
Kill Devil Hills, NC 27948
412-889-5510
golfernut@zoominternet.net

info

From: Pamela Greene <ptgreene71@yahoo.com>
Sent: Sunday, January 17, 2021 2:46 PM
To: info
Subject: Changes to the Somerset section of Bermuda Bay subdivision

Dear Commissioners,

Please do not allow any changes to the Somerset section of Bermuda Bay. I am a full time resident of Bermuda Bay in the Devonshire section and I'm very concerned about the negative impact the proposed changes by Saga Construction would cause.

Here is a list of my concerns:

Can Bermuda Bay Blvd. handle 300 plus more vehicles on a daily basis? Since there is only one entrance and exit for Bermuda Bay there will probably be backups during morning, afternoon and evening heavy traffic periods. How will all the extra vehicles impact road conditions and who pays for repairs?

Parking is already a major problem in Devonshire during the busy rental season and I feel the residents of Somerset will try to use our area for any overflow parking which will create more problems, especially during emergency situations.

I'm concerned about crime and the safety of residents in this area.

How will Somerset apartments affect my property value?

Commissioners, I really like my neighborhood the way it is. I am a widow, live alone and have lived in the KDH area for 34 years. Again, please leave Bermuda Bay PUD as is and don't allow any changes.

Sincerely,

Pamela Greene

info

From: david creamer <creamer.dav@gmail.com>
Sent: Monday, January 18, 2021 12:46 PM
To: info
Subject: Proposed Somerset PUD Update

Dear KDH Board of Commissioners,

We own and permanently reside in a single detached home at 1510 Bailey's Bay Road in the Devonshire Section of Bermuda Bay. Our home is directly across Bermuda Bay Boulevard from the proposed SAGA Somerset development. We purchased our home three years ago with the understanding that the current PUD allowed for that area in question to be developed with residential townhomes. Much to our dismay, we have learned that SAGA has proposed a change to the PUD whereby they would be able to build two multi-unit complexes for long term renters. This change runs counter to the other surrounding developments in Bermuda Bay and would have a detrimental effect on the community. We ask that the Board protect the vested interests of Bermuda Bay homeowners and deny SAGA's proposed change to build long term rental complexes and thus enforce the existing PUD.

Sincerely,

David and Terry Creamer

info

From: Tricia Starry <tricia.starry@comcast.net>
Sent: Monday, January 18, 2021 2:55 PM
To: creamer.dav@gmail.com; twc0201@gmail.com; info
Subject: Re: Fwd: Proposed Somerset PUD Update

Hi neighbors..what a mess across the street! Instead of the beautiful wooded area I would normally see out my kitchen window it looks like a big mess. We were dismayed about all the downing of trees, destruction of natural wildlife habitat, and possibly months of heavy construction with all the noise and activity. We were not aware that area would be developed any time soon when we purchased our house.

It will no longer be a quiet setting for residents now and into the future if plans move forward to build the new development. We are living here full time currently. We never had plans to rent our house. With the addition of the new Somerset development we will no longer have peace and quiet that we thought we would have when we purchased this house.

We strongly oppose the building of the Somerset development.

Tricia Starry
1504 Bailey's Bay Rd

01/18/2021 1:36 PM Terry Wagoner Creamer <twc0201@gmail.com> wrote:

All,
Please see below. If you have any questions don't hesitate contacting us. If you have time please also write the board of commissioners at info@KDHnc.com.
It must be in by 5:00 p.m. today to be read at the meeting. Thanks so much....Terry and David

---------- Forwarded message ---------
From: **david creamer** <creamer.dav@gmail.com>
Date: Mon, Jan 18, 2021 at 12:46 PM
Subject: Proposed Somerset PUD Update
To: < info@kdhnc.com>

Dear KDH Board of Commissioners,

We own and permanently reside in a single detached home at 1510 Bailey's Bay Road in the Devonshire Section of Bermuda Bay. Our home is directly across Bermuda Bay Boulevard from the proposed SAGA Somerset development. We purchased our home three years ago with the understanding that the current PUD allowed for that area in

info

From: empiddington@charter.net
Sent: Wednesday, January 20, 2021 1:46 PM
To: info
Subject: Bermuda Bay PUD

I would like to object to the additional 2 - 4 story multi-family structures proposed in Somerset, Bermuda Bay. There is only one access road to this subdivision and I worry about increased traffic issues and safety. There are already numerous housing facilities on this road: Spring Arbor, apartment buildings, homes, condo, etc. Access in and out of the existing Bermuda Bay development is already limited. Does SAGA really need to develop more housing?

SAGA needs to be more realistic regarding more development. What is needed is affordable housing for low income residents of Dare County.

Previous owners stated that they were going to be environmentally friendly in their development process. Overbuilding the area is not conducive to protecting the fragile environment.

Thank you for your time and consideration.

Elaine Piddington
1100 Fox Street, KDH