

Kitty Hawk Planning Board Meeting  
January 17, 2018 ~ 6:00pm  
Kitty Hawk Municipal Building

**AGENDA**

1. Call to Order/Attendance
  2. Approval of Agenda
  3. Approval of Minutes:
    - a. November 15, 2018
  4. Administrative Report:
    - a. Town Council Action from December 3, 2018 and January 7, 2019 Meetings
  5. Public Comment
  6. Conditional Use Permit/Preliminary Site Plan Review
    - a. 6100 N. Croatan Highway – Gas Station. The Applicant has requested a Conditional Use Permit for a gas station that would be Phase I of the Planned Commercial Development.
  7. Comments:
    - a. Chairman Richeson
    - b. Planning Board Members
    - c. Town Attorney
    - d. Planning Director
  8. Adjourn
1. **Call to Order/Attendance:**

Chairman Richeson called the Kitty Hawk Planning Board to order at approximately 6:00pm on Thursday, January 17, 2019.

**Board Members Present:**  
John Richeson, Chairman; Bryan Parker, Vice-Chairman; Chuck Heath, Member; Dusty Rhoads, Member; Jim Geraghty, Member; Gary Muir, Alternate; Matt Spencer, Alternate.
  2. **Approval of Agenda:**

Hearing no objections/changes/corrections to the January 17, 2019 Agenda, the Agenda was approved unanimously.
  3. **Approval of Minutes:**

Hearing no objections/changes/corrections to the November 15, 2018 Minutes, the Minutes were approved with Mr. Parker making the motion to approve and Mr. Geraghty seconded and the Minutes were approved unanimously.
  4. **Administrative Report:**
    - a. Town Council Action from the December 3, 2018 and January 7, 2019 Meetings.

Mr. Testerman stated that at the December 3, 2018 Meeting, the Council approved the buffer detail for the OBX Urgent Care facility and they are underway in putting in the plantings and the Certificate of Occupancy could be issued as early as the week of 1/21/19.
    - b. At the January 7, 2019 Council Meeting, the Council approved the Text Amendment for the setback requirements for the gas station and the Council also approved the PCD zoning request.

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5. **Public Comment:**

- Mr. Richeson asked if any member(s) of the audience would like to speak and if so, to come forward and state their name/address.
- Mr. Richeson clarified for members of the audience that the Planning Board is strictly an 'advisory board' that makes recommendations to the Town Council and the Council, in turn, can either agree with the Board's recommendation(s) or deny those recommendations; therefore, the Council has the final vote.
- As no member(s) of the audience approached the Board, Mr. Richeson closed the Public Comment portion of the meeting.

5. 6. **Conditional Use Permit/Preliminary Site Plan Review:**

- a. 6100 N. Croatan Highway –Gas Station. The Applicant has requested a Conditional Use Permit for a gas station that would be Phase I of the Planned Commercial Development.
- Mr. Testerman stated that the Applicant is requesting approval of a Conditional Use Permit to construct a gas station and convenience store as part of the approved Planned Commercial Development. The PCD Zoning Classification was approved at the January 7, 2019 Council Meeting.

b. **Proposed Conditional Uses:**

- The PCD overlay district states that permitted and conditional uses of the underlying zoning district are permitted and in the underlying PBC-2 district, and as gas stations are listed as a conditional use with the following conditions:
- No principal or accessory building shall be located within 50' of a residential district, and provided that there shall be no storage of wrecked or abandoned cars and that no portion of a gas station, building, equipment or canopy shall be nearer than 30' to any right-of-way and no portion of gas pumps shall be nearer than 50' to any right-of-way. The setbacks were modified via a Text Amendment request at the January 17, 2019 Council Meeting.

c. **Background:**

- The subject property is presently zoned Beach Commercial (BC-2) with a Planned Commercial Development (PCD) overlay. There currently is an abandoned building on the site. The parcel is approximately 35,000 square feet in area and it is not the entire PCD site, just the parcel that is proposed for the gas station/convenience store.
- Directly abutting the subject property to the north, across US 158, is a medical office building and a pond that are part of Southern Shores.
- Abutting the subject parcel to the west is an undeveloped parcel zoned BC-2.
- To the south are three (3) parcels zoned BC-2, one of which is part of the PCD and the other parcels contain a cabinet shop and an auto mechanic shop.
- To the east, across The Woods Road, are undeveloped, single-family properties zoned BR-1.
- Gas stations are permitted as conditional uses in the Beach Commercial (BC-2) district.

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**d. Lot Coverage:**

- a. In the PCD District, the total ground area occupied by all principal buildings and parking lots shall not exceed 50% of the total of the area of the PCD which is different from the typical determined lot coverage maximum. In the PCD, driveways, walkways and streets shall not be included for the purpose of maximum lot coverage calculations.
- b. The submitted drawings show a lot coverage of 28,051 sq. ft. or 58.3% of the gas station lots at 6100 N. Croatan Highway. Because this is part of the PCD lot coverage as a whole. The overall site is 6.24 acres (21,966.4 sq. ft.) 28,051 sq. ft. of coverage comes to approximately 10.3% which is far below the maximum allowed.
- c. Mr. Testerman stated that the lot coverage comes into play in Phase II which has to be submitted and then a review of the building/application review.

**Building Height:**

- The maximum height in the BC-2 district is thirty-five feet (35') from the existing grade to the peak of the roof and this will be reviewed at the time of the building permit application proposal.

**Building Setbacks:**

- For gas stations, no principal or accessory building can be located within 50' of a residential district. The convenience store is proposed to be approximately 76' away from the nearest residential district and across The Woods Road from the subject lot. No portion of a gas station building, equipment or canopy shall be nearer than 30' to any right-of-way. A retail/convenience store is not considered a gas station building. The proposed gas station canopy is located 35.2' feet from the nearest right-of-way.
- No portion of the gas pumps shall be nearer than 50' to any right-of-way and the proposed pumps are shown at 52.4' from any right-of-way. The typical BC-2 setbacks apply to the convenience store as well as the setbacks from the canopy to adjacent properties to the south and west.

**Convenience Store:**

- The convenience store is proposed to be 68' from the front property line; 20 feet from the rear; 10' on the west side and 16' on the east side; all meeting the minimum requirements.

**Canopy:**

- The front proposed setback is 35.2'; the rear at 21' and the sides at 36' west and 148' east.

**Access:**

- The subject property is proposed to be served by one new 22' wide ingress/egress off of The Woods Road. A "right-in/right-out" ingress/egress drive is proposed to access the site directly from N. Croatan Highway and an additional right-in/right-out ingrees/egress is proposed on N. Croatan Highway that will serve as the future access to Phase II multi-family development.

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- This access drive will also tie into the rear of the gas station shown on the plans. A NCDOT permit will be required to install the proposed driveways onto N. Croatan Highway and The Woods Road which are both State roads.
- The interior drive aisle also serves as a fire lane for the property and also complies with the N.C. Fire Code.

**Parking:**

- The parking calculations total sixteen (16) parking spaces which are required and the proposed site plan shows a total of twenty (20) paved parking spaces accessed by the drive aisle which exceeds the minimum limit. The ADA standards require a minimum of one (1) handicapped accessible parking space and there are two (2) ADA spaces being proposed.

**Loading Zone:**

- The Applicant has a loading zone to the west of the proposed convenience store and according to Sec. 42-547 of the Zoning Ordinance states that a typical loading space should be a minimum of 12'x25' in size but goes on to state; "a loading space need not be necessarily a full berth but shall sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the property served thereby."
- After calculating the proposed uses, the Planning Board can determine if a loading area is needed and if so, what size loading zone will be necessary to accommodate the proposed development. It is Staff's opinion that the proposed loading zone is sufficient for the proposed use.

**Buffers:**

- Vegetative buffers shall be required between all uses in commercial zones and abutting residential zones. There are no residential uses or zones to the west or south of the proposed development; therefore, no buffer is required.
- The property to the east is zoned residential but is separated by The Woods Road and does not directly abut the subject parcel.
- The eastern boundary of the subject property is separated by approximately 60' from the residential zone and it is Staff's opinion that a vegetative buffer is not required.

**Waste Management:**

- The Applicant has proposed to locate dumpsters at the northwest corner of the parking area.

**Lighting:**

- An outdoor lighting plan must be submitted and approved by the Planning & Inspections Department prior to the issuance of a building permit and any outdoor lighting must comply with the standards of Sec. 42-515 of the Zoning Ordinance.

**Signs:**

- This will be reviewed at a later date and will be permitted separately by the Planning & Inspections Department. The Applicant will be permitted to have its own free-standing sign up to 48' and there is a single free-standing sign shown on the site plan.

**Wastewater Disposal:**

- Septic improvement permits from the Dare County Environmental Health Department will be required prior to any issuance of any building permits. The septic area is proposed to be on the adjacent lot and is also part of the PCD and is permissible within an approved PCD.

**Flood Zone:**

- The subject property appears to be located entirely within an X Flood Zone which means that the buildings are not required to meet any particular flood elevations.

**Conditional Use Findings:**

- Per the standards of Section 42-99(b)(7) and in order to approve this application, the Town Council must make findings that the proposed conditional uses:
  - a. Does not materially endanger the public health or safety.

If all of the required State and other permits are obtained,, then the authorized agencies will have reviewed and permitted the driveway designs and locations, septic systems, water lines, stormwater management and erosion and sediment control plan. Therefore, it can be presumed that these improvements will be made in a safe manner.
  - b. Does meet all required conditions and specifications.

The proposed development is consistent with all required conditions and specifications.
  - c. Will not substantially injure the value of adjoining property or be a public nuisance, and:

Given that the site has sat for a number of years with an abandoned building and parking lot in disrepair, it would be Staff's opinion that the proposed development would not injure the value of adjoining property.

There is no evidence that suggests that a gas station and convenience store would become a 'public nuisance.'
  - d. Will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

With the approval of the previous Text Amendment request and PCD designation proposed use is in general conformity with the comprehensive plan.

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With the commercial zoning and abutting commercial uses, the proposed use will be in harmony with the area in which it is located

Mr. Testerman added the following: During a meeting with the Engineer and Fire Department, the Fire Department stated that one (1) additional fire hydrant will be required near The Woods Road access site.

Mr. Testerman spoke with the Applicant the afternoon of January 17, 2019 and the Applicant has recently received a revised wetlands delineation for the large site to the rear because that's been reduced and was not reflected on the site plan and the Applicant has requested that no recommendations be made at this meeting and to table this until the March, 2019 Planning Board meeting when the Applicant will then be able to update the plans accordingly before it goes before the Town Council.

Mr. Testerman also stated that if the Board has any concerns with the site plan, this would be a good time to address them so that the Applicant will have the opportunity to review them prior to the March, 2019 Planning Board Meeting.

Mr. Richeson then asked the Board if there were any questions and the discussion among the Board Members began with Mr. Richeson asking if the old building would be demolished and Mr. Testerman stated 'yes.'

Mr. Muir's concern centered around traffic jams, especially during the summer months when tourists are leaving Dare County and those cars trying to turn left at the light to enter the gas station and Mr. Richeson a possible consideration could be some sort of concrete median and Mr. Geraghty stated, 'like the one recently erected in front of the 7-11' which would prevent left-hand turns. Mr. Geraghty also stated that there is a left-turn lane at The Woods Road light and Mr. Testerman stated that the nearest left-turn for northbound traffic is the left into the Kitty Hawk Estates.

Mr. Richeson stated that DOT would be reviewing all possibilities and Mr. Geraghty suggested that the Town should make their recommendations to the DOT for further review. Mr. Geraghty also made the point that once the residential units open, those residents will have to turn at the light at The Woods Road to go home.

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Hearing no further discussion, Mr. Richeson asked, per the request of the Applicant, that this be tabled until the February 14, 2019 Planning Board Meeting in order to give the Applicant ample time to review/revise the plans. Mr. Geraghty made the motion to table this matter until the March, 2019 meeting and Mr. Richeson seconded and the motion was passed unanimously.

**Comments:**

- a. Chairman Richeson – none
- b. Planning Board Members – Mr. Geraghty asked for an update with Kitty Hawk Woods ordinance and Mr. Testerman stated that he had not heard from the Applicants and also that, evidently, the lot sizes back there were approved some years back and that they may not meet the minimum lot requirements. He went on to stated that a lot of the lots in that area are 80,000 sq. ft., and the ordinance does states the 80,000 sq. ft. of non-wetlands.
  - Mr. Geraghty stated that, by law, a realtor is required to let anyone looking to purchase something back there, they would need to know that the lots are non-conforming and if they are not notified at the start, any realtor showing the lots could be sued for not notifying any prospective buyers.
  - Mr. Geraghty stated that the ordinance was worded incorrectly from the beginning and that the Town needs to address the original ordinance and Mr. Testerman stated that he will be some research on the original wording or possibly the plat was reviewed incorrectly or had been approved when it should not have been. Mr. Geraghty stated that he would be willing to meet with Mr. Testerman and others who were initially involved in crafting the original ordinance.
  - Mr. Varnell stated that they are non-conforming lots and that if any of the owners want to move forward to do something with the lots, there will be some issues and is still a matter of disclosure.
- c. Town Attorney – nothing further
- d. Planning Director – nothing further

**Adjourn:**

Hearing no further comments, Mr. Richeson adjourned the January 17, 2019 Planning Board Meeting at approximately 6:45pm.

Respectfully submitted by Patricia Merski, Recording Secretary.