

Kitty Hawk Planning Board Meeting
Thursday, July 19, 2018 – 6:00pm
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. April 19, 2018
4. Administrative Report:
 - a. Town Council Action from June 4, 2018 Meeting
5. Public Comment
6. Text Amendment:
 - a. **42-251(c)34, 42-419(1)**. The Applicant has proposed Text Amendments that would:
 - 1) Allow multi-family dwelling developments in the BC-2 District with certain conditions; and, 2) Reduce the minimum site size of a PCD from 10 acres to 5 acres.
7. Rezoning:
 - a. **4909, 4911, 4915 & 4919 Putter Lane**. The Town initiated Proposal would rezone the four Town owned lots from BR-1 (Low density residential) to MS-1 (Emergency and Governmental services,
8. Comments:
 - a. Chairman Richeson]
 - b. Planning Board Members
 - c. Town Attorney
 - d. Planning Director
9. Adjourn
1. **Call to Order/Attendance:**

Chairman Richeson called the Kitty Hawk Planning Board Meeting to order at approximately 6:10pm on Thursday, July 19, 2018.

Board Members Present:

John Richeson, Chairman; Bryan Parker, Vice-Chairman; Chuck Heath, Member; James Geraghty, Member, Gary Muier, Alternate, Matt Spencer, Alternate

Board Member Absent:

Dusty Rhoads, Member.

Due to the absence of Board Member Rhoads, Matt Spencer, Alternate will vote at this meeting.

Staff Present:

Robert Testerman, Director, Planning & Inspections; Casey Varnell, Town Attorney; Patricia Merski, Recording Secretary

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2. **Approval of Agenda:**

Chairman Richeson stated, that the Applicant had requested that Text Amendment 42-251(c)34, 42-419(1) be heard last as the Applicant had a prior meeting and wanted to be in attendance for this Text Amendment.

- Chairman Richeson asked if the Board had any objections to this reversal and hearing none, it was passed unanimously that Item 7 on the Agenda would be heard first and Item 6 last due to the Applicant's request.

3. **Approval of Minutes: April 19, 2018**

Chairman Richeson had a comment but had not highlighted it for discussion; therefore, hearing no objections/changes/corrections to the April 19, 2018 Minutes, Mr. Parker motioned to approve the Minutes 'as is' and Mr. Geraghty seconded and the Minutes were passed unanimously.

4. **Administrative Report: Town Council Action from June 4, 2018 Meeting.**

- Mr. Testerman stated that the Town Council approved the Amendment that members of the Board of Adjustment of Kitty Hawk must be residents of Kitty Hawk.
- Town Council approved the commercial portion of the Text Amendment Mr. Calfee brought forth concerning permeable concrete and lot coverage and bonuses but did not approved it for the residential uses.

5. **Public Comment:** Chairman Richeson asked for Public Comments and seeing as no one from the audience approached, Mr. Richeson closed the Public Comment portion of the meeting.

- Agenda Item #6 should follow "Public Comment", but as approved earlier, at the request of the Applicant for Item #6, Agenda Item #7, came first so that the Applicant's Representative, who had a combined prior meeting to the Planning Board, could attend.

6. **(#7) Rezoning: 4909, 4911, 4915 & 4919 Putter Lane.** The Town initiated proposal would rezone the four (4) Town owned lots from BR-1 (low density residential) to MS-1 (emergency and governmental services).

- Mr. Testerman proceeded as follows:
- The property in question are lots 4907, 4911, 4915 and 4919 Putter Lane and the Proposal is for these four (4) lots to be rezoned from Beach Residential (BR-1) to Emergency and Government Service (MS-1) and at this time there is no immediate or forthcoming site plan proposal.

- **Background Information:**

The four properties were acquired by the Town as a property exchange in which the Town gave up 5113 and 5117 Putter Lane. For approximately twenty years, the Town held these two properties in the event that a second fire station was ever needed. Although the intended future use for the properties was for a potential future fire station, the zoning remained BR-1 on those two lots. These were tied into the previous rezoning for the Conditional Use Permit for the medical services permit in exchange for the Town giving up lots 5113 and 5117 Putter Lane.

- Moving forward, these four (4) lots acquired via the property exchange will now be held until such a time when/if a new fire station or other governmental service building is needed. While “town owned and leased facilities’ is a permitted use by-right in the BR-1 district currently and it would be better practice to have properties more appropriately zoned for the benefit of current and future nearby property owners.
- Directly abutting the subject properties to the north is a vacant lot zoned BR-1; further north are additional developed residential lots, zoned BR-1. To the south is a developed commercial area zoned BC-1 and abutting the property is a real estate office. West of the subject parcels is zoned BR-1 and is a part of the Seascope Golf Course. To the east, across N. Croatan Highway are several residentially zoned properties (BR-1). These properties contain single-family homes.

Staff Analysis:

Current Zoning: BR-1. The Beach Residential (BR-1) District allows mainly single-family residential uses. A handful of limited institutional and commercial uses are also permitted as conditional uses. The intent of the BR-1 District is to encourage the development of low-density residential neighborhoods in Kitty Hawk.

Proposed Zoning: MS-1. The Emergency and Governmental Services District allows hospitals and medical centers by-right as well as Town owned or leased facilities and a number of other medical and governmental uses as Conditional Use Permits (fire station, physician offices, pharmacies, optometrist offices, etc.) The intent of the MS-1 district is to provide for the proper grouping and development of medical services, medical offices, emergency and governmental services facilities in the Town.

Proposed Development. There is no proposed development at this time and none is expected in the immediate future.

Land Use Plan:

- It is important to note that approval of a rezoning request is not legally required to be consistent with the Town’s Adopted Land Use Plan; however, the Land Use Plan is an important document to consider as it is intended to help guide the pattern of development of the Town.
- The Town of Kitty Hawk’s Adopted CAMA Land Use Plan appears to designate the subject parcel as a **Lower Density Residential Area**. The Plan provides the following description for a **Lower Density Residential Area**: “Residential areas should provide for the low-density development of single-family detached dwellings in an environment which preserves natural features to the extent possible and promotes stable, permanent neighborhoods.”
- The lots abutting the subject parcels to the south are shown as **Commercial, Shopping and Working Areas** on the Future Land Use Map. The Plan provides the following description for a **Commercial, Shopping and Working Areas**: “Commercial, shopping and working areas include areas that primarily encourage the concentration of commercial facilities in clusters or group developments and to provide readily accessible shopping facilities and will provide for the proper grouping and development of commercial facilities to serve permanent and seasonal residents and the general public. Some of these areas are envisioned to provide limited mixed uses. Other section of the Town is zoned MS-1 where the Sentara facility was and on the future use map that is also shown as commercial, shopping and working areas.

Consistency with the Future Land Use Plan:

- The following general goal and policy may also be considered when reviewing the Application’s consistency with the Adopted Land Use Plan:

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- **“Policy #9a: Kitty Hawk will provide or support the provision of public systems and services at appropriate levels adequate to meet the needs of residents and visitors.”**
 - **“Objective #9a: Monitor local levels of service issues and take a proactive approach toward ensuring service demands are met.”**
 - **“Goal #15: Ensure safety of residents and visitors.”**
 - **“Objective #15c: Support the efforts and programs of the Kitty Hawk Fire Department, Ocean Rescue, Kitty Hawk Police Department, Dare County Emergency Medical Services, the North Carolina Highway Patrol and the Dare County Sheriff’s Department to protect the citizens and visitors of Kitty Hawk.”**
 - As part of its review, the Planning Board is asked to determine the consistency of this Zoning Amendment Proposal with the Adopted CAMA Land Use Plan.
 - Mr. Richeson asked if any Members of the Board had any question for Mr. Testerman and Mr. Richeson asked ‘how far north is the other MS-1 District which had been discussed at a previous meeting and Mr. Testerman stated approximately 1300 feet. Mr. Richeson stated that this would be consistent in having all the services in one location.
 - Mr. Richeson then asked for a Member of the Board to make a motion and Mr. Geraghty made the following: **“I recommend approval of the Application to rezone the properties at 4907, 4911, 4915 and 4919 Putter Lane to Emergency and Governmental Services (MS-1). Although inconsistent with the Future Land Use Map in the Town’s Adopted Land Use Plan, the Board has found that the proposal is consistent with the Future Land Use Plan which is tied to the goals and Policy #9a and to incorporate all by reference and all comments shown under the Staff Report.”**
 - Mr. Richeson seconded and was approved unanimously.
7. **(#6) Text Amendment: 42-251(c)34, 42-419(1).** The Applicant has proposed Text Amendments that would: 1) Allow multi-family dwellings in the BC-2 District with certain conditions; and, 2) Reduce the minimum site size of a PCD from ten (10) acres to give (5) acres.
- Proposal:**
The Applicant has proposed a Text Amendment that would add multi-family dwellings as a Conditional Use in the BC-2 (Beach Commercial) District.
- Proposed Language:**
The standards that are being requested are the exact same as those approved for the multi-family dwellings in BC-1 and the only difference in the two Applications is that the Applicant has requested multi-family dwelling developments as a Conditional Use Permit and should this be approved, it would allow for multiple multifamily dwellings if the lot is large enough for the lot coverage requirements and septic needs.
- Additionally, the Applicant has proposed the following Amendment to the Planned Commercial Development requirements that it go from a minimum size of ten (10) acres to five (5) acres and has also added in an additional requirement that it have no less than 500 feet of total road coverage on either US 158 or NC Highway 12.

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- **Background:**

Several months ago, the Town Council adopted the proposed language in the BC-1, General Beach Commercial District. The current proposal would expand that particular Conditional Use Permit to the BC-2 Beach Commercial District which is highlighted on the attached zoning map. As a Conditional Use Permit, each proposal would come before the Planning Board and Town Council for review.
- The BC-2 District, by nature is a more intensely developed district than the BC-1. The scope and intent of the BC-2 is to provide for the development of commercial facilities in Kitty Hawk Beach to furnish a broad range of services and commodities to serve the entire community. The BC-2 District was established to provide for the commercial needs of the Town and the immediate surrounding geographical area. The commercial development within the BC-2 District is characterized by medium to large size land parcels with commercial development of medium intensity. Commercial centers may be authorized in this District but large shopping centers or shopping malls and 'big box' retail/wholesale businesses exceed the scale of development.
- Currently, the Zoning Ordinance allows detached single-family homes and apartments on the second story of compatible commercial uses as Conditional Uses in the BC-2 District. The BC-2 District also allows all permitted uses in the BC-1 District with the addition of a handful of other more intense commercial uses only permitted used by-right.
- The following is a list of other Towns on the Outer Banks that allow multi-family dwellings in commercial districts.
- Duck – does not allow
- Southern Shores – Multi-family dwellings are permitted in the C, general commercial district, according to the dimensional requirements of their RS-8, multi-family residential district. They do allow an extra 10% lot coverage for multi-family dwellings in the commercial district (40%) versus those in the RS-8 (30%).
- Regarding the proposed Amendment to the Planned Commercial Development (PCD) Ordinance, approval would reduce the minimum site size from ten (10) acres to five (5) acres and would also require a minimum of 500 feet of road frontage on either N. Croatan Highway or N. Virginia Dare Trail. PCD's are currently allowed as a Conditional Use Permit in the BC-1, BC-2, BC-3 and BH-1 Districts. Approval of the proposed Amendment would open the possibility of a PCD on one currently undeveloped lot in the area of the intersection of The Woods Road and N. Croatan Highway. Other parcels that would meet the new size requirement for a PCD include Kitty Hawk RV Park and the U.S. Post Office. Several other lots that meet minimum size requirement, but would not meet the proposed minimum road frontage requirement. These sites include Sea Scape Beach & Gold Villas, Harris Teeter, Wal-Mart and OBX Chevy. The proposed language would affect three (3) parcels.

Consistency with Land Use Plan:

- The following policies and objectives relevant to this Application are stated in the CAMA land Use Plan:
- Policy #17a: Kitty Hawk will continue to adapt, enforce and amend as necessary ordinances and procedures to regulate residential development and redevelopment. The

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- Town supports applicable State and Federal laws and regulations regarding building, land uses and development.
- Policy #17b: Detached residential structures are the preferred type of residential development.
- Objective #17a: Ensure the continuance of established residential development patterns.
- Objective #17b: Ensure future development is consistent with adopted goals, objectives and policies and regulations including building code requirements and is in character with existing development with respect to features such as building size, lot coverage, architectural design standards and construction materials and methods.
- Objective #17d: Enforce, and amend as necessary, the Town Zoning Ordinance including designation(s) of permitted and conditional use intensity and density criteria.
- Questions followed: Mr. Parker asked about the lot size the Mr. Testerman stated that the current undeveloped lot is approximately 5.4 acres and that the Text Amendment is not site specific and if the Applicant has a specific site in mind in the future, this would require a site plan review.
- Mr. Richeson clarified that the Text Amendment would not pertain to any specific site and Mr. Testerman stated it wouldn't apply to any particular site but would apply to all the sites in the BC-2 District and the PCD would affect BC-1, BC-2, etc. He also reiterated that the size requirement is still at five (5) acres and the road frontage requirement narrows that down to about three (3).
- Mr. Testerman stated that the one lot currently undeveloped is approximately 5.44 acres according to the Dare County Assessment.
- Mr. Richeson asked for clarification regarding the term acre; should it be stated as 'buildable acre' and Mr. Testerman stated that that language was not requested in the BC-1 and if the Board wants to specify they can do that.
- Mr. Parker stated that out of the proposed five (5) acres only two (2) are viable and Mr. Testerman stated that could be considered a positive, leaving three (3) acres of open, green space. He also stated that this could be in line with a current trend of 'cluster developments' which usually starts with a large tract, has the developed area clustered in one small area, and leaving a large amount of open space; and that the more traditional styles of a subdivision would use all the space possible, clearing large amounts of land.
- Mr. Richeson asked for clarification on the lot size being 15000 square feet and doesn't a portion of that 15000 have to be considered 'buildable?' and Mr. Testerman stated that when lots are subdivided, there has to be a minimum of 15000 sq. ft and CAMA/CRC wetlands can't be included in that, but the Army Corps 404 wetlands can be counted towards minimum lot sizes.

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- Mr. Richeson then stated that it would have nothing to do with 'buildable' and Mr. Testerman stated that it still could be considered 'buildable' and CAMA has a certain setback that applies to the CAMA wetlands.
 - Mr. Richeson asked if the Text Amendment allows this process there is no site plan or specific site referenced and Mr. Testerman stated that would come in the future if the Text Amendment is approved.
 - Mr. Richeson stated that in the BC-1 District there can be multi-family dwellings above a business and Mr. Testerman stated that there can be apartments and the same for the BC-2 District, with a conditional use permit.
 - Mr. Richeson asked if someone wanted to do that and do 18 dwelling units/acre or a detached structured apartment building or have a small shopping center with apartment above some of the stores ,they would have to be sitting on top of a business and Mr. Testerman stated 'yes' based on the wording and that there are no density requirements on apartments over compatible commercial uses. This would also have to come before the Board and could be approved or denied by the Board and/or Town Council and Mr. Testerman stated that the Council could place additional conditions on a case-by-case basis and could add any other conditions.
 - Mr. Michael Robinson, the Applicant's representative arrived and added that this proposal is similar to what was approved in a more restrictive BC-1 zone and the Applicant felt that this would be a good fit for the Town. Regarding 'buildable' and 'non-buildable', sometimes this self-regulates and the density that is here would probably not be an issue because of the setbacks to the wetlands. Typically, it's hard to max out a density at a low-density area such as this parcel and Mr. Richeson reiterated that should this pass, it would be self-regulating and Mr. Robinson stated 'yes' and that most of the Kitty Hawk sites are self-regulating with regard to lot coverage.
 - Mr. Richeson then asked for a Member to make a motion and Mr. Geraghty made the following: ***"I recommend approval of the proposed Text Amendment to amend Section 42-251(c) adding 251(c)34, multi-family dwellings as a Conditional Use in the BC-2 Beach Commercial; and 42-419(1) reducing the minimum site size for the PCD from ten (10) acres to five (5) acres. The Board has found this Proposal to be consistent with the Town's Adopted Land Use Plan."***
 - Mr. Richeson seconded and Mr. Parker objected, passing the Amendment 4-1.
8. **Comments:**
- a. Chairman Richeson – welcomed new alternate Matt Spencer to the Board
 - b. Planning Board Members – none
 - c. Town Attorney – none
 - d. Planning Director – none
9. **Adjourn:**
Hearing no further comments, Mr. Richeson adjourned the July 19, 2018 Kitty Hawk Planning Board Meeting at approximately 6:40pm.

Respectfully submitted by Patricia Merski, Recording Secretary