

Kitty Hawk Planning Board Meeting
June 17, 2021 – 6pm
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. May 27, 2021
4. Administrative Report:
 - a. Town Council Action
5. Public Comment
6. Subdivision
 - a. McCollough Subdivision – 740 W. Kitty Hawk Road; four (4) lot subdivision
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 June 17, 2021 Kitty Hawk Planning Board Meeting to order at approximately 6:00pm.

Board Members Present:

John Richeson, Chairman; Bryan Parker, Vice-Chairman; Dusty Rhoads, Member; Chuck Heath, Member; Jim Geraghty, Member; Blair Meads, Alternate; Rob Testerman, Planning Director.

Absent: Casey Varnell, Town Attorney

2. **Approval of Agenda:**

Hearing no objections/changes/corrections to the June 22, 2021 Agenda, the Agenda was approved unanimously.

3. **Approval of Minutes:**

Hearing no objections/changes/corrections to the May 27, 2021 Minutes, the Minutes were approved with Mr. Parker making the motion to approve and Mr. Heath seconded and the Minutes were approved unanimously.

4. **Administrative Report:**

Mr. Testerman stated that the Town Council has set up a Public Hearing for the Subdivision Variance of Southern Woods Phase I, Hornbeam Road introduced at the May 27, 2021 Board Meeting.

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5. **Public Comment:**

- Mr. Richeson stated that this was where, on the Agenda, anyone in the audience may come forward to make a 'public comment' and he also reiterated that the Planning Board is an 'advisory board', in that, the Board may recommend approval of an Agenda item, but the Town Council may not agree and not approve the Board's recommendation.
- Mr. Richeson closed this portion of the Meeting as no one from the audience came forward to make any public comment.

6. **Subdivision:**

a. McCollough Subdivision – 740 W. Kitt Hawk Road; four (4) lot subdivision.

- Mr. Testerman began his presentation by stating that the Applicant has submitted an Application and Preliminary Plat for the subdivision of the parcel at 740 W. Kitty Hawk Road. The Plat outlines a proposal to subdivide one (1) existing parcel totaling 2.42 acres on the north side of W. Kitty Hawk Road into four (4) lots. No public or private road is proposed as a part of this subdivision; however, there is a proposal for an improved access easement to be maintained and repaired by the property owners.
- The four (4) lots would be 37, 154 sq. ft; 30,117 sq. ft; 23,025 sq. ft and 15,023 sq. ft. **As a Note:** The access easement is similar to one other access on Woods Road that accesses a few houses at once.
- Mr. Testerman spoke with Mr. Varnell to verify that there haven't been any changes to the Ordinance since it was approved and therefore, there should not be any reason to have the easement approved.
- **Zoning:** The subject property currently has a single-family residence and associated accessory structures and is zoned VC-1 Village Commercial. The VC-1 District allows single-family residences as a permitted use, by-right, with limited permitted commercial as an accessory to the single-family residence.
- **Lot Size:** The minimum lot size in the VC-1 District is 15,000 sq. ft.
- **Wetlands:** Wetlands designated by the U. S. Army Corps of Engineers – 404 Wetlands (USACE) are included in the lot size calculations. A large amount of area on the site are USACE wetlands; however, the proposed lot divisions are done in a manner to contain an adequate building area.
- **Density:** The VC-1 District is under Sec. 42-276 which does not list a specific density requirement.

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- **Lot Width:** The minimum lot width in the VC-1 District is 75ft which is measured at the front building setback line on each parcel, with a minimum width of at least 50 feet at the road frontage. The plat shows that each proposed lot meets this requirement.
- Section 38-105(b)4 expressly prohibits flat lots; however, after discussing the proposed configuration with Mr. Varnell it was determined that as the lots meet the minimum road frontage requirements and maintain the 50 foot width back to building area, these proposed lots do not meet the definition of a 'flag lot', defined by 38-1 as a "lot which has a narrow frontage on a street and a thin strip of land which provides access from the street right-of-way to a wider portion of that lot.
- **Building Setbacks:** The minimum setbacks in VC-1 are 15 feet in the front and 20 feet in the rear and there are no specific side yard setbacks listed in 42-276. The minimum building setbacks are shown on the preliminary plat.
- **Road Frontage:** There are no new rights-of-way proposed a part of this subdivision; however, there is a private access easement proposed coming off W. Kitty Hawk Road in one single location that will access all four (4) lots and the Owners of the lots will be responsible for the maintenance and repair of the approved access.
- **Road Access:** Since it is not being proposed to be a public or private street, it is not required to meet the Town standards. Between lots three (3) and four (4) there is a proposed 25'x75' fire apparatus turnaround to be marked with "No Parking – Fire Line" signage. The Kitty Hawk Fire Department has reviewed this proposed and the 'turn-around' and also the proposed fire hydrant on W. Kitty Hawk Road between lots three (3) and four (4) and the Dare County Water Department has also reviewed the location of the proposed hydrant.
- **Septic:** All of the proposed lots will be served by individual, on-site septic systems. The plat shows an active repair area for each lot and each separate lot Owner must apply for a Building Permit and the precise location of the septic locations will be determined by the Dare County Health Department.
- **Land Use Plan:** The Kitty Hawk 's adopted CAMA Land Use Plan designates the subject parcels as a "Low Density Residential Area" on the future land use map.
- The Land Use Plan contains the following goals, policies and objectives relating to this request.

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- **POLICY #11c:** Kitty Hawk will review and analyze development and redevelopment proposals for consistency with the Future Land Use Map included in this Land Use Plan.
- **Policy 4b:** Kitty Hawk will maintain the pattern of current development specifically low density residential (no more than four (4) dwelling units per acre) and small scale commercial development with provisions for discretionary review of large scale commercial development.
- **Objective #11d:** Evaluate development and redevelopment proposals according too goals, objectives and policies and the land suitability analysis and the future land use map developed as part of this Land Use Plan.
- Mr. Testerman stated that the note on the plat states that W. Kitty Hawk Road that a right-of-way is dedicated on this plat and that that section of the road was never turned over to the DOT and therefore, this recordation of this plat would dedicate the right of way to the DOT.
- Mr. Gomez came forward and stated that the right-of-way was never dedicated and the property line goes through the center of the property and 60' right-of-way is being proposed to the DOT. He also stated that one of the subdivisions will have a gas line that goes across the street and he had a conversation with the Piedmont Gas Company concerning this and that property is also owned by the Applicant.
- Mr. Parker asked how many square feet of wetlands there are in total and Mr. Gomez stated that has not been calculated on the plat.
- Mr. Geraghty stated that when the future owners apply for the original permit it will then be determined whether the lots are buildable even though there are four (4) lots, the Health Department could determine that the lots are not buildable.
- Mr. Parker stated that although the lots meet the requirements, the density, is the density put into one spot and Mr. Geraghty stated that this is what was done with the cottages which were one (1) acre lots which were 75' and this proposal is 50' and common driveway was installed and ¼ was buildable with a ridge in the back and the amount of wetlands did not come into play.

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- Mr. Geraghty also stated that there was enough buildable acreage to satisfy the Health Department and not interfere with the 404 Wetlands.
- Mr. Geraghty asked, if they fill in any of the wetlands would that be up to the Corps of Engineers to determine whether it has to be mitigated and where to put in the easement?
- Mr. Gomez stated that he had spoken to the Health Department and was told that prior days, the Health Department would look at each lot individually and individuals had the right to ask the Corps of Engineers if they had the right to fill in any areas.
- Mr. Richeson stated that in the Land Use Plan it states that a density in a residential area is defined as 'a density of merging two units/acre' and that there are 2.4 acres and four (4) units, and depending on how the plat is divided and where the two (2) acres lie, it appears to meet the definition in the Land Use Plan and Mr. Testerman stated that it does meet those requirements, the overall acreage in a subdivision and how many dwellings there are; it doesn't matter how they are broken up and with this proposal, there will be a large area of undeveloped property but will still count as maximum density and that comes under the density requirements. Four dwellings in a 2.4 acre subdivision equals roughly 1.7 dwellings per acre.
- Mr. Testerman also stated that the Ordinance is binding, where the Land Use Plan is a guiding document, but since the Ordinance doesn't define 'maximum density' for this district, it would seem appropriate to go by the density listed in the Land Use Plan.
- Mr. Parkers asked how someone can access lot 4 where the road seems to stop and that there appears to be no driveway to lot 4 and Mr. Gomez stated that the easement stops where the driveway will begin and the pedestrian walk-way would be an easement access.
- Mr. Gomez also stated that the Corps of Engineers were satisfied; they have been to the site and agreed to the wetlands standards per their criteria.
- Mr. Testerman stated that if this proposal is approved, the individual lot owners need to apply for building permit and the improved easement into each lot will count toward the 30% lot coverage and give the lot sizes, Mr. Testerman doesn't see any forthcoming issues.

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- Mr. Testerman also stated that he and Mr. Varnell had a conversation about how the smaller subdivisions were presented to the Board and Council prior, and here, because the parcel is bigger than two (2) acres and there are three (3) lots, both the preliminary and final plat could be approved at the same time and even with the proposed easement, because it is not a public or private street, this could also be done as in prior proposals and Mr. Varnell was fine with both being approved at the same time.
 - Mr. Geraghty stated that the Board has no control on where the easement would be as long as there is an access easement for the lots.
 - Hearing no further questions from the Board, Mr. Richeson asked for a member of the Board to make a motion and Mr. Geraghty made the following: ***“I recommend approval of the preliminary and final plat for the McCollough subdivision at 740 W. Kitty Hawk Road into four (4) lots.”*** Mr. Heath seconded and the motion was approved unanimously.
7. **Comments:** Mr. Richeson had no comment other than to welcome Mr. Meads to the Board and hearing no further comments from any other members of the Board, Mr. Richeson closed that portion of the meeting.
8. **Adjourn:** Mr. Richeson closed the June 22, 2021 Planning Board Meeting Minutes at approximately 6:40pm.

Respectfully submitted by Patricia Merski, Recording Secretary.