

Kitty Hawk Planning Board Meeting  
November 10, 2021 – 6:00pm  
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
  - a. October 14, 2021
4. Administrative Report:
  - a. Town Council Action – November, 2021
5. Public Comment
6. Text Amendment:
  - a. 42-414(b) Specific Special Uses
7. Comments
8. Adjourn

• **Call to Order/Attendance:**

Chairman Richeson called the November 10, 2021 Kitty Hawk Planning Board Meeting to order at approximately 6:00pm.

**Board Members Present:**

John Richeson, Chairman; Bryan Parker, Vice-Chairman; Jim Geraghty, Member, Chuck Heath, Member; Rob Testerman, Planning Director; Casey Varnell, Town Attorney

**Absent:**

Dusty Rhoads, Member; Blair Meads, Alternate; Matt Spencer, Alternate

• **Approval of Agenda:**

Hearing no objections/corrections, etc., the Board approved the Agenda unanimously.

• **Approval of Minutes:**

Hearing no objections, corrections, etc. Mr. Parker made the motion to approve the Minutes and Mr. Richeson seconded and the Minutes were approved unanimously.

• **Administrative Report: - Town Council Meeting, November 2021:**

- Mr. Testerman stated that the Council reconvened regarding the rezoning of 3722 N. Croatan Highway and was ultimately approved.

- There are three (3) Public Hearings scheduled: 1) The four (4) lots for the police station; 2) Text Amendment for the lot coverage for the permeable pavement; (3) Text Amendment regarding the RV parks and, because the Applicant wasn't available for the November, 2021 Council Meeting, that will be held at the December, 2021 Council Meeting.

**5. Public Comment:**

- Mr. Richeson stated that the Board's role is strictly as an Advisory Board and the Town Council can either agree or deny the Board's motion(s).

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- Mr. Richeson closed this portion of the meeting as there were no participants from the audience.

6. **Text Amendment: 42-414(b): Specific Special Uses**

- The Applicant has proposed a Text Amendment that would add multi-family dwellings as a Special Use in the Planned Commercial Developments (PCDs) with a maximum density of 14 dwelling units per acre.
- **42-414(b)3. Multi-family Dwelling Development**
  - a. **The maximum permitted density shall be fourteen (14) residential dwelling units per acre.**

**Background:**

Planned Commercial Developments are intended to provide Developers with an option by which they can achieve flexibility of design, the integration of mutually compatible uses and optimum land planning with greater efficiency, convenience and amenity than may be permitted as of right under other parts of the Zoning Ordinance. (taken directly from the Ordinance). PCDs can be approved within the BC-1, BC-2, BC-3 and BH-1 Zoning Districts in town [42-411(d)] if certain site requirements are met. A PCD must be at least five (5) contiguous acres in size with not less than 500 feet of total road frontage on US Highway 158 or NC Highway 12 except that portions of the site may be separated by public or private rights-of-way not more than 60 feet in width.

Currently, multi-family dwellings are permitted as a 'special use' in the BC-1 District with a maximum density of ten (10) dwellings per acre and multi-family dwelling developments are permitted as a 'special use' in the BC-2 District with a maximum density of ten (10) dwellings per acre and they are also permitted by right in the BR-3 District with four (4) dwellings per acre.

The proposed language would be in conflict with the standards currently permitted as a 'special use' in the BC-1 and BC-2 Districts, however, Sec. 42-412 states that, should there be any conflict between any PCD development standards and the standards elsewhere in the Zoning Ordinance, the PCD standards shall apply.

It should be noted that 42-414(a) states that the 'permitted' and 'special uses' of the underlying Zoning Districts within the PCD are the 'permitted and special uses' within the PCD.

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Sec 42-424(b) outlines additional 'special uses' that are permitted in PCDs and currently include 'miniature golf course' and 'retail sale of Christmas trees'. Currently, a PCD in the BC-1 District could have a multi-family dwelling at ten (10) dwellings per acre and a PCD in the BC-2 District could have a multi-family dwelling development at ten (10) dwellings per acre. Approval of the Text Amendment would allow a multi-family dwelling development in any PCD at fourteen (14) dwellings per acre.

Should the Text Amendment be approved prior to any multi-family dwelling development being approved, the site would first need to be large enough to meet the PCD requirements, then would go to a PCD preapplication conference, then a conceptual review, followed by preliminary development plan and site plan approval and final development and site plan approval. All review stages are done with the Planning Board and/or Town Council for approval. The 'special use' review/public hearing would fall under the preliminary development plan and site plan approval. Section 42-419(attached) lists specific standards and requirements that each PCD must adhere to regarding lot coverage, buffers, building height, etc.

**(NOTE:** Currently in the BC-1 District a multi-family dwelling can be obtained as a 'special use' with ten (10) dwellings per acre and in the BC-2 District there can be multi-family dwellings as a development as a 'special use' with ten (10) dwellings per acre and should this Text Amendment be approved, the above would remain the same and would still be the requirement as this only applies to the PCD).

Mr. Testerman then showed three areas on the screen, in the green, blue and orange are the only areas where there is a PCD is approved in Town. The 'green' area indicates the Home Depot site and part of the Beachwoods area. The 'blue' area was most recently approved with 7-Eleven and the larger lot to the rear and the 'orange' area is the promenade area as one crosses the bridge into Kitty Hawk.

As of today, if this Text Amendment is approved the three above mentioned areas shown would be the only places in Town where this would apply. Any future PCDs in the future would have to go through all the aforementioned approval processes.

The Applicant, Mr. Goodrich is present for any questions.

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Mr. Richeson asked for clarification regarding the three (3) established places for the PCDs, but stated, that there could be more PCDs in the future providing all the criteria is met and Mr. Testerman stated 'yes' and also included that the PCDs would need to have five (5) contiguous acres and 500' of road frontage on 158 or on Highway 12. (**NOTE:** Mr. Testerman stated that the initial thought was that this applied to the BC-2 District and recently were approved ten (10) dwellings per acre and he clarified with Mr. Goodrich that this pertained to PCD and was in line with the requirements of the PCD which is intended to provide Developers with an option by which they can achieve flexibility of design, integration of mutually compatible uses, optimal land planning with greater efficiency, convenience and amenity that may be permitted as a 'right' under other parts of the Zoning Ordinance.)

Mr. Testerman also stated that the 'intent' of the PCD is to give the Developers greater flexibility as the other Districts have.

Mr. Geraghty reiterated that this gives the Developer the chance to maximize the property and not increasing the use of the property and that more multi-family areas are needed in the Town.

Mr. Testerman stated that density in the Zoning Districts for low medium or high density residential is not different but the type of structures are defined; low-density is single-family dwellings per acre; medium density residential are duplexes, single-family homes and four (4) dwellings per acre and hi-density is multi-family homes with four (4) dwellings per acre.

Mr. Richeson asked if the footprint going from 10 to 14 would be a bigger footprint and Mr. Geraghty stated that the number of buildings would have the same number of bedrooms and footage would be based on the footprint which doesn't change the density as the lot coverage will remain the same and not an impact to the land.

Upon hearing no further questions, Mr. Richeson asked for a motion and Mr. Geraghty made the following: ***"I recommend approval of the proposed Text Amendment to amend Sec. 42-414(b3, adding multi-family dwellings as a 'special use' in Planned Commercial Developments with a maximum density of fourteen (14) dwellings per acre. The Board has found this proposal to be consistent with the Town's Adopted Land Use Plan."***

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Mr. Heath seconded but Mr. Richeson and Mr. Parker denied and there was a tie and Mr. Varnell suggested that this should be tabled until more members of the Board are present to hear the proposal and then vote.

Mr. Richeson then stated that the 'motion' would be tabled until there are more Board members in attendance and Mr. Parker seconded.

**6. Comments:**

- a. Chairman Richeson – no comments
- b. Planning Board Members – no comments
- c. Town Attorney – no comments
- d. Planning Director – no comments

**7. Adjourn:**

Hearing no further questions/objections, etc. Mr. Richeson adjourned the November 10, 2021 Meeting of the Kitty Hawk Planning Board at approximately 6:35pm.