

Kitty Hawk Planning Board Meeting
November 17, 2022 – 6pm
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. Minutes of the September 19, 2022 Meeting
4. Administrative Report:
 - a. Town Council Action: October 3, 2022; November 7, 2022
5. Public Comment
6. Text Amendment:
 - a. Text Amendment 42-275 VR-3. The Applicant proposes amending minimum site size, building height and density on lots meeting certain requirements.
7. Comments:
 - a. Chairman Richeson
 - b. Vice-Chairman Parker
 - c. Planning Board Members
 - d. Town Attorney
 - e. Planning Director
8. Adjourn

1. **Call to Order/Attendance:**

Chairman Richeson called the November 17, 2022 Planning Board Meeting to order at approximately 6:00pm.

Members Present:

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

Absent:

Jim Geraghty, Member; Matt Spencer, Alternate; Blair Meads, Alternate

2. **Approval of Agenda:**

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

3. **Approval of Minutes:**

Mr. Parker made a motion to approve the Minutes, Mr. Richeson seconded and the Minutes were approved unanimously.

4. **Administrative Report:**

- a. Town Council Action: October 3, 2022:

Mr. Testerman stated that the Council approved Text Amendment 42-419(7) and the Town Code changes that are not part of the Zoning Ordinance subdivision.

Kitty Hawk Planning Board
Meeting Minutes
November 17, 2022

-2-

b. November 7, 2022: Itinerant Merchants.

Mr. Testerman is gathering feedback from Kitty Hawk citizens on both subjects (itinerant merchant markets and outdoor gatherings) and based on the feedback, Mr. Testerman will 'draft' those into 'ordinance language form' and the Council stated that the 'draft' would have to be presented to the Board.

5. **Public Comment:** No audience in attendance; therefore, Mr. Richeson closed the Public Comment of the meeting.

6. **Text Amendment:**

a. Text Amendment – 42-275, VR-3. Applicant proposes amending minimum site size, building height and density on lots meeting certain requirements.

42-275(d)1. Minimum Lot Size for family dwellings on lots less than five (5) acres and less than 650 feet of frontage on a state-maintained road to change the minimum lot size, increase density and build-up.

- The VR-3 District is established as an area in Kitty Hawk Village in which the primary use of the land is for high density residential purposes; the development of less intensive residential uses as well as for compatible supporting uses (42—275(a))
- Currently the townwide height maximum, aside from the BH-2 District, Beach Hotel District is 35'. The BH-2 District allows for a maximum total height of 76'. While significantly taller than the maximum height required in the rest of Town, the BH-2 District is very limited in scope, so the majority of the Town is unaffected by the increased height limit permitted in the BH-2 District. The proposed Text Amendment would apply to the high density Village Residential District which makes up approximately 32 acres in Town, located between Kitty Hawk Rd and Twiford St, west of The Woods Road.
- At this time, with the proposed size and state right-of-way restrictions, the regulations would only be applicable to the hotel properties; however, with changes in ownership and recombinations, it is possible that the lots on the north end of the VR-3, fronting The Woods Rd and Twiford could potentially meet these requirements (there are no current proposals to do any changes to these properties).
- The Proposal for the density change begins with "Where multi-family developments...", it should be noted that the Zoning Ordinance differentiates between multi-family dwellings and multi-family dwelling developments. Multi-family dwelling developments are not permitted in the VR-3 District, and should the Board recommend approval, this language should be amended to avoid confusion and the 'possible language' could be "Where a multi-family dwelling is located on a parcel greater than 5 acres..."

Kitty Hawk Planning Board
Meeting Minutes
November 17, 2022

-3-

- Additionally, in two portions of the proposed language, the Applicant references “650’ of frontage on a state maintained road”; and, in another use “650’ of frontage on a state right-of-way.” Should the Board recommend approval, Staff would recommend using the same reference throughout to avoid confusion.
- Mr. Testerman stated that the Applicant was not in attendance but sent Mr. Testerman an email stating that the Applicant would be open to changes that would be more applicable to the Town but the Applicant did not offer any specific changes. Mr. Testerman also encouraged the Applicant to attend the meeting where the Board may have possible suggestions/recommendations or to table the Text Amendment and have the Applicant revisit his proposal and come to the Board with any new changes.
- Mr. Testerman stated that, if the Text Amendment is denied by the Board, the Applicant may lose his chance to revise his proposal and resubmit and Mr. Varnell agreed.
- Mr. Parker wanted clarification that the proposed would go from 20 units to 75 units and Mr. Testerman said ‘yes’.
- Mr. Testerman then referred to the map on the screen of the VR-3 District and stated that because of the road frontage, acreage and the restrictions that are being proposed, this would only apply to the lots at the southern end of the property.
- He also stated, that, in the future if there are any ownership changes or recombinations, where there could be a combination of the three (3) parcels into one parcel, this would also apply to this proposal.
- Mr. Varnell asked if a formal recombination is required on this proposal or could a ‘development agreement’ be recorded in the Register of Deeds and Mr. Testerman stated that it is preferred to register a plat and Mr. Richeson asked how the recombination would work and Mr. Testerman stated that the plat show the two lots on the line which divides the two lots and; therefore, a survey would be done with a line that would be vacated and a sign-off would then take place.,
- Referring to the map on the screen, Mr. Richeson which lot shown would it be and Mr. Testerman stated that the Applicant own the two lots shown on the screen and the plan is, at this time, to eliminate the indicated lot line and Mr. Testerman stated that the eastern side of the lot is not buildable due to the wetlands but the square footage calculation counts toward the lot coverage calculations and the density calculation.
- Mr. Richeson asked if the current Zoning Ordinance in VR-3 would be 20 family dwelling units on the west side of the creek and Mr. Testerman stated ‘yes’ and Mr. Richeson stated that because it’s a high- density area and there is the Bob Perry curve and The Woods Road curve and that with this proposal of 75 units there could be issues of people entering the road.
- Mr. Richeson stated that at this time he cannot see this proposal as being consistent with the current Land Uses Plan and referenced Chapter 2, page 18 where it states, “desired general physical appearance and form” and mentions “redevelopment proposals which would seek to build higher and closer and will change the Town with respect to maintaining and enhancing its desired physical appearance and form.”

Kitty Hawk Planning Board
Meeting Minutes
November 17, 2022

-4-

- Mr. Richeson also stated that Kitty Hawk Village (VR-3) as referred to in the original language was possibly zoned when the zoning was made in with the Land Use Plan and should the Applicant want to adhere to the Land Use Plan there should be no problem and after a Public Hearing and comments from the public, the height the Applicant is proposing of 50' as opposed to the current requirement of 35' and Mr. Testerman stated that the height would be 35'.
 - Mr. Richeson wanted clarification on the options the Board has in either approving, denying or tabling this proposal and Mr. Testerman stated that without the Applicant being present, the Board is looking at either approving or denying and if 'approved' or 'denied' this proposal would still be presented to Council.
 - If the Board denies the proposal and the Applicant wants to make changes that would have to be done before the Proposal would be submitted to Council.
 - Mr. Varnell stated that he and Mr. Testerman would discuss what the Applicant would be willing or not willing to do based on the substantial nature of the changes and Mr. Testerman stated that a Public Hearing could be held based on the Board's recommendation and, therefore, Council may then deny or send the proposal back to the Board for review.
 - Mr. Varnell stated that, in his opinion, it was detrimental that the Applicant was not in attendance and the should the Board denial the proposal, this would work against the Applicant or the Council could send the Proposal back to the Board and if the Board denies, then a revised version of the proposal would be required.
 - Mr. Varnell stated that the Board could make the motion to 'deny' and then discuss or another Board Member could make an entirely different modification to the proposed motion and Mr. Parker stated that concessions on housing in this proposal doesn't fit the Land Use Plan.
 - Mr. Richeson asked for a motion to be made and Mr. Parker made the following: ***"I recommend denial of the proposed Text Amendments to Section 42-275. The Board finds that this proposal is inconsistent with the Town's Adopted Land Use Plan."*** Mr. Richeson seconded; there was no further discussion and the motion was passed unanimously.
7. **Comments:**
- a. Chairman Richeson – none
 - b. Vice-Chairman Parker – none
 - c. Planning Board Members – none
 - d. Town Attorney – none
 - e. Planning Director -none
8. **Adjourn**
Hearing no further comments/objections, etc., Chairman Richeson adjourned the November 17, 2022 Kitty Hawk Planning Board Meeting at approximately 6:30pm.