

April 13, 2023 – 6PM
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. Minutes of November 11, 2022, November 16, 2022 Land Use Plan and February Land Use Plan meetings
4. Administrative Report:
 - a. Town Council Action
5. Public Comment
6. Land Use Plan Update: Stewart, Inc. provided an update of the progress of the Future Land Use Plan. **(NOTE: ADDENDUM AT END OF MINUTES)**
7. Commercial Site Plan Modification: 1004 W. Kitty Hawk Road; Owner is requesting to convert existing bathhouse into livable units.
8. Text Amendment:
 - a. Text Amendment – 42-528(c) Proposal to eliminate requirement that ADU' shall not be served by a driveway separate from that serving the principal dwelling.
9. Comments:
 - a. Chairman Richeson
 - b. Planning Board Members
 - c. Town Attorney
 - d. Planning Director

10. Adjourn

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

Chairman Richeson called the Kitty Hawk Planning Board Meeting to order at approximately 6:00pm on Thursday, April 13, 2023.

Members Present:

John Richeson, Chairman; Bryan Parker, Vice-Chairman; Jim Geraghty, Member; Rob Testerman, Planning Director; Patricia Merski, Recording Secretary

Absent:

Dusty Rhoads, Member; Chuck Heath, Member; Blair Meads, Alternate; Matt Spencer, Alternate; Casey Varnell, Town Attorney.

2. **Approval of Agenda:**

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

3. **Approval of Minutes:**

Mr. Richeson made a motion to approve the November 11, 2022; November 16, 2022 and February 7, 2023 meeting minutes and Mr. Parker seconded and the Minutes were approved unanimously.

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4. **Administrative Report:**

- a. Town Council Action – No current updates.

5. **Public Comment:**

- a. No audience in attendance; therefore, Mr. Richeson closed the Public Comment of the meeting.

6. **Land Use Plan Update:**

- a. Stewart Inc. will provide an up-to-date report on the progress of the Future Land Use Plan. (See Addendum)

7. **Commercial Site Plan Modification: 1004 W. Kitty Hawk Road:**

- a. Owner is requesting to convert an existing bathhouse into livable units.
- Mr. Testerman provided a slide in reference to the above Site Plan Modification. The site is the old Hostel Building/school house. There is no site plan due to the fact that there are no actual physical changes to be made at this site. The location is behind the trees on the west side of the property of 1004 Kitty Hawk Road where a two-story structure exists which is a bathhouse that was originally approved in 2000.
 - The previous Owner expanded the structure adding a second story which added sleeping units to the structure and the Town was only made aware of this in 2001 and in July 20, 2001, a violation letter was sent to the previous Owner stating that the addition was not consistent with the original approved site plan. These additions had to be torn out and then go through the approval process by providing a site plan modification.
 - Now, the new Owner is requesting to put the residential units back into the structure and Mr. Testerman stated that this would not necessarily be a site plan modification and based on the history of the structure it will be up to the Planning Board and Town Council to have this approved.
 - The specifics of the parcel are 4.85 acres in the BR-3 District which would allow maximum density of four (4) dwelling units per acre which therefore would allow up to 19 units/this site.
 - Currently, the structure has 16 units based on the Fire Code from 2019 and that the existing bathhouse is not labeled as a residential building and therefore, if the Board and Council approve, it would strictly be for zoning and the Owner would then have to reclassify the plans per the building permit and the fire and building codes and would require the Owner to install a sprinkler in the new unit.
 - Therefore, the focus is on the zoning and should the Board recommend approval, the motion needs to include all applicable State and other regulations required. Also, there is no current survey on this site and the existing lot coverage is not known but according to the new Owner, there would not be any change to the lot coverage.

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- Another matter that may be of concern is the minimum parking requirements. Currently, multi-family dwellings require one parking space per bedroom; currently there are 16 existing bedrooms and that would require 18 parking spaces with one handicap space required by the ADA.
 - Mr. Testerman referred to the site map that shows the current parking spaces that are alongside the building and the rest shows a concrete area that has also served for parking and because there is ample space new parking spaces can be sited.
 - Mr. Geraghty clarified that parking is part of the zoning but with this modification there are no changes being made to the site plan and Mr. Testerman stated that the existing site plan shows the parking area and because there are no footprint changes there should not be any survey required.
 - Mr. Parker asked about access to the property and Mr. Testerman stated that is through West Kitty Hawk Road. Originally the Owner had conversations with the Fire Department to use the site as housing for the Ocean Rescue which the Fire Department since has declined, but the Owner still wants to move ahead for the site to have residential units.
 - Mr. Testerman also stated that there are no building height changes but as part of the building permit, a septic permit would be required to ensure that the system will be able to handle the 18 units.
 - Mr. Parker stated that years ago this site was a conditional use for tent camping and special use permit for tent camping expired years ago and Mr. Richeson asked if the Owner would be required to present a formal site plan and Mr. Testerman stated that he had made the decision that no site plan would be required as nothing on the site is changing and that there would only be interior remodeling on the existing structure and the Owner would need to supply Mr. Testerman verification that rooms 17 & 18 would need to be reviewed
 - Hearing no further questions/comments, Mr. Richeson asked for a motion to be made and Mr. Richeson made the following: **“I move to recommend approval of this site plan modification at 1004 Kitty Hawk Road.”** Mr. Parker seconded and the motion was approved unanimously.
8. **Text Amendment: 42-528 (c)**
- a. 42-52(c) Proposal to eliminate requirement that ADUs shall not be served by a driveway separate from that serving the principal dwelling.
 - Mr. Testerman stated that there are currently two definitions for ADUs; one defines Accessory Dwelling Units and the second defines an Access Dwelling UNIT and that the purpose of the meeting, if approved, is to combine the two to create one definition...“Accessory Dwelling means a secondary dwelling unit established in conjunction with and is clearly subordinate to a principal dwelling unit whether part of the same structure as the principal dwelling unit or as a detached structure on the same lot with or without independent cooking facilities. **“The use of manufactured homes, travel trailers, motorhomes, campers or similar vehicles as an Accessory Dwelling Unit is prohibited.”**

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- Mr. Testerman stated that “Accessory Dwellings Unit shall not be served by a driveway separate from that serving the principal dwelling.
- The current Ordinance does not have any restrictions for having a second driveway entrance to a property in any other scenario unless there is an Accessory Dwelling Unit which means, a property owner currently can get a sit plan approval for a single-family dwelling with a detached garage that does not have a living space above and is not classified as an Accessory Dwelling Unit and they would be permitted to have a separate driveway to access each building as long as the setbacks and lot coverages area met and therefore, the residential site plan would be approved. But, if that detached garage has a second level-conditioned space, regardless of the actual use of the conditioned space, by definition, in Sec. 42-1, it is now considered an Accessory Dwelling Unit and the Town would not permit a driveway to access the garage portion.
- Council has requested the Board to revisit this issue and Mr. Testerman produced slides; one, showing a detached garage with an unfinished space above and a separate driveway access would be permitted; however, the second slide showing a detached garage with a finished living space and this is now considered an Accessory Dwelling Unit and a separate driveway would not be permitted to access the garage.
- If the Text Amendment is approved, this would allow for detached garages to have a living space above, would be considered an Accessory Dwelling Unit and a separate driveway would be permitted.
- Mr. Testerman stated that, currently, there is one permitted driveway that has an Accessory Dwelling Unit built on a concrete pad that stops before the property lines and the house in this instance fronts on Sunrise View and the Accessory Dwelling Unit is on West Tateway and the same road is used.
- Mr. Parker brought up an example on Kitty Hawk Road where a new structure has been built as a rental and there is a second driveway to the new structure and he was curious how this happened and that and if the Text Amendment is approved it would then allow for this driveway to be legal.
- Member of the Board brought up different scenarios concerning separate driveways and Mr. Richeson cited the Sunrise View and Tateway may be a problem, should a fire break out in the Accessory Dwelling Unit, the 911 call shows the address as Sunrise and the Fire Department would be going to the wrong location and Mr. Geraghty stated that part of the Ordinance could state that an Accessory Dwelling Unit would have to be on the same road and Mr. Testerman stated that the Ordinance states that there should not be double frontage.
- Mr. Parker stated that he doesn’t like the density and putting two driveways on a property that was zoned to be a single-family residence.
- Mr. Testerman stated that the consistency of the current Ordinance based on Accessory Dwelling Units is any conditioned space separate from the building is considered an Accessory Dwelling Unit.

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- There was discussion on the recommendation and/or approval of the Text Amendment and the following was agreed on: First Motion: ***“I recommend approval of the proposed Text Amendment 42-1, the definition of an Accessory Dwelling Unit.”*** Mr. Parker seconded and the motion was approved unanimously.
 - Second Motion:
 - ***“I recommend denial of the proposed Text Amendment, Sec. 42-528, paragraph C: “Accessory Dwelling Units shall not be served by a driveway separate from that serving the principal dwelling.” The Board finds it is inconsistent with the Town’s Adopted Land Use Plan and inconsistent with the original intent for Accessory Dwelling Units.”*** Mr. Parker seconded and Mr. Geraghty opposed.
9. **Comments:**
- a. Chairman Richeson – a thank you to the Board and Mr. Parker for his presentation
 - b. Planning Board Members – None
 - c. Town Attorney – Absent
 - d. Planning Director – None
10. **Adjourn:**
Hearing no further comments/objections, etc., Chairman Richeson adjourned the April 13, 2023 Kitty Hawk Planning Board Meeting at approximately 7:42pm.

Respectfully submitted by Patricia Merski, Recording Secretary

Planning Board Meeting

April 13, 2023

ADDENDUM

FUTURE LAND USE PLAN UPDATE

Jake Petrosky, AICP and Project Manager at Stewart did a slide presentation on the progress of the Kitty Hawk Future Use Plan which incorporated the following:

- a) Community Vision and Goals
- b) Infrastructure Services and Utilities
- c) Transportation
- d) Economy
- e) Park and Open Spaces
- f) Land Use
- g) Environment
- h) CAMA

As an overview, the Comprehensive Plan is a way to collect and agree on a shared community Vision.

- Under CAMA which is required by the State and the Coastal Resource Commission, specifically for coastal communities which includes Public Access, Land Use Compatibility, Infrastructure Carrying Capacity, Natural Hazards and Water Quality.
- In the Fall of 2022, there was review of the existing plans; a public survey focusing on goals, values and vision and there was a Public Meeting to share the survey data.
- April 2023, The Stewart Group is at the “plan drafting” stage of the Future Land Use Plan and once the Plan has been drafted, there will be a Public Meetings for members of the Kitty Hawk community to review and gain feedback. This will continue into the Fall of 2023 where there will be Public Adoption hearings which will include a State review.
- The following has occurred:
 - October, 2022 – Administration Kick Off Meeting
 - November 16, 2022 – Public Open House
 - December 12, 2022-January 16, 2023 – Community Survey
 - February 7, 2023 – Public Meeting at Town Hall
 - May, 2023 – a third Public Meeting will be held
 - June-August, 2023 – Review of the public comments and finalization of the Adoption Plan draft
 - August-October, 2023 – Submit the Plan for State review.
- There are twelve (12) goal:
 - 1) Public Access
 - 2) Land Use Compatibility
 - 3) Infrastructure
 - 4) Carrying Capacity
 - 5 and 6) Natural Hazard Areas
 - 7) Water Quality
 - 8 and 9) Protecting the Forests
 - 10) Flood Plans – Natural habitat and the protection of the natural and cultural resources.

ADDENDUM
FUTURE LAND USE PLAN UPDATE

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GOALS (contd)

11 and 12): Incorporate a safe, integrated, efficient and economic network to include bike lanes, sidewalks, etc., for mobility accessibility and safety for the residents and visitors of Kitty Hawk. Also, to have an adequate supply of affordable and workforce housing for year-round residents Continue to enhance the recreational facilities and programs and build community experiences for the citizens of Kitty Hawk.

- Mr. Petrosky also presented slides showing areas in Kitty Hawk that are identified as part of the intended development plan and this showed the land use areas, sea level risk of 2', flood risk and the wetlands.
- Other important aspects of the Future Land Use Plan are: Invest and improve, maintain and enjoy, accommodate and adapt, acknowledge and conserve the areas shown on the map.
- The main Future Land Use Plan Character Areas are vital to the Town and the need to invest and improve the prosperity and identity of the town; reviewing non-residential existing areas for possible new homes and businesses and to ensure these areas and prospective homes are not in a vulnerable area of the sea level rising at 2'.
- There will be actions taken to accommodate and adapt residential and non-residential areas which may be prone to any natural hazards and to review certain areas where certain structures should be elevated, armored, etc. to protect the health, safety and property.
- Other areas of concern are:
 - Reviewing any areas susceptible to natural hazards for rising sea levels which are along the oceanfront.
 - Reviewing areas where there could be impairment to septic systems functioning according to the Health Codes for the foreseeable future.
 - Adequate facilities for walking, bicycling, etc.
- Regarding Safety, there are concerns with Highway 158 and major concerns along NC 12, Kitty Hawk Road, Moore Shore Road, Eckner and Tateway Road.
- Slides were shown regarding existing pedestrian facilities, pedestrian crashes that have occurred in the aforementioned areas and then a slide showing Potential Priority Areas.
- The major recommendations for the Future Use Plan are to include:
 - Updating commercial and residential design standards to ensure quality design, and compatibility with existing structures.
 - A top challenge is housing availability and affordability for year-round residents, workers, services and families. This would include allowing Accessory Dwelling Units, the possibility of duplexes, triplexes or quads in strategic areas where they would be served by a septic system.

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FUTURE LAND USE PLAN UPDATE

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- There is also a recommendation for future land use, development and redevelopment of infrastructure that would be consistent with Kitty Hawk's natural systems and would be resilient to a changing environment,
- Another challenge concerns public infrastructures and services that would include streets, stormwater, powerlines, police/fire, EMS building and operations. This would also include incentives for commercial and residential projects.
- There are also top resiliency priorities concerning beach erosion and/or beach nourishment to include regular dune plantings and a budget for beach nourishment.
- And, Finally, next steps would be more concentration on plan development, more open public meetings and open house events and a plan review and comments.