

Kitty Hawk Planning Board Meeting
Kitty Hawk Municipal Building
August 17, 2023 - 6pm

AGENDA

1. **Call to Order/Attendance**

Chairman Richeson called the Kitty Hawk Planning Board Meeting to order at approximately 6:00pm on Thursday, August 17, 2023

Members Present:

John Richeson, Chairman; Bryan Parker, Vice-Chairman; Chuck Heath, Member; Matt Spencer, Member; Robert Testerman, Member; Craig Merrill, Alternate

Absent:

Jim Geraghty, Member; Blair Meads, Alternate; Casey Varnell, Town Attorney

2. **Approval of Agenda:**

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

3. **Approval of Minutes:**

- a. Minutes of June 29, 2023 - Hearing no objections/corrections/additions, the June 20, 2023 Minutes were approved unanimously.
- b. Minutes of July 27, 2023 - Hearing no objections/corrections/additions, the July 27, 2023 Minutes were approved unanimously.

4. **Administrative Report:**

- a. Town Council Action: Mr. Testerman reported that there was a Public Hearing on Text Amendment for Temporary Markets & Outdoor Events and Commercial Yard Sales and the process for 'temporary' uses and that the Council referred This back to Staff to approve.
- B. Temporary Markets & Outdoor Events & Gatherings sent back to the Board To have them include language on public safety issues; i.e., securing tents, Closing off drive aisles, etc. and this will be discussed at the September Board Meeting.
- c. There will be a Public Hearing at the September Council Meeting regarding Lot size definitions. Here, Mr. Richeson asked if Mr. Testerman had heard Back from any of the restaurant owners and Mr. Testerman stated 'not at this Time' and this is tabled until the October Board Meeting

5. **Public Comment:**

Mr. Richeson asked for anyone in the audience who wanted to speak to come to the Podium and give their name and also stated that the Board actually serves as an 'Advisory board' to the Town Council and any recommendations that the Board may Make to the Council, they will review and, at times, the Council will reject the Board's recommendation, Council may make their own recommendation or send It back to the Board for further review. (There were no audience members to Address the Board)

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-2-

6. **Future Land Use Plan Update:** A draft of the Future Land Use Plan was presented to the Board for recommendation to the Town Council for their September Meeting.

- Andrea Radford from Stewart, Inc. was back and presented an update on the Future Land Use Plan.
- She covered “Project Purpose”, “Schedule”, “Document Organization”, “Vision and Goals”, Draft of the Future Land Use Plan”, “Recommendations & Implementations” and “Next Steps.”
- A Comprehensive Plan documents a community conversation which has been ongoing for the better part of a year. This Plan will help leaders prioritize community goals; guides for rezoning; land development decisions and what is mandated by the State as the conditions relating to GS 160D.
- She also stated that the State will monitor what the Town has done as defined as every five (5) years for minor updates and for any major updates every ten (10) years.
- A Comprehensive Plan has certain elements: Plan Use, Environment, Parks & Open Spaces, Economy, Vision, Infrastructure, Transportation and also includes Community Vision and Goals.
- The Land Use Plan also includes the Land Use Management Act which includes land use management topics, public access, land use compatibility, infrastructure hearings, natural hazards and quality.
- The next steps would include a recommendation from the Board to the Town Council and review to the State.
- Ms. Radford also stated that based on the community survey there were 300 responses and public engagement and some of the themes were to: keep the low coastal village feeling, focus on recreation, recreational facilities for the youth; seniors and senior activities; have a ‘welcome center’ and a Town Hall and these elements are classified as “Opportunity Areas.”
- Other common themes related to the survey included housing, character, and flooding and storms.
- There were some edits done: page 39 some revisions made; policy 3.4 on page 51 where clarification was added on monitoring impacts to accessory dwelling units and the Village residential zoning district.
- Policy 4.1 on page 52 added a strategy to use FEMA’s Community Rating System and a ‘local officials guide to saving lives to seek opportunities to improve the Town’s current rating and in other areas that could also increase the rating.

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-3-

- Also: Page 56 highlighting the last bullet: 8.1 which was missing and was deleted.
- Page 56: Water Quality Policies: This area highlights septic systems and there was an edit to this bullet under 9.2 which now states; “encourage the use of engineered septic systems” where traditional on-site gravity based tanks and drain pool systems are not feasible due to site conditions or adequate areas for a repair zone.
- Also on page 56: Policy 7.1 has been reworded and on pages 61 and 72 there is now an ‘implementation table’ that was not originally included.
- Appendix: CAMA Matrix has been completed and is required by the the Department of Coastal Management that uses that as a checklist to ensure all required components are in the Plan.
- There are also definitions in the Appendix; i.e., ‘consider’, ‘enhance’ etc. that can refer to the definition and how those terms are to be used.
- There is also an ‘endangered species list’ but this may not include all species that are in Dare County.
- Ms. Radford also stated that the organization of the Plan includes a ‘public outreach section,’ followed by a ‘community assessment mission plan, which includes demographics, housing and economies.
- Chapter 3 includes the survey results and vision which is the broad aspiration for the Town followed by the Goals that are more specific which were based on the community survey and also includes topics required by CAMA.
- Chapter 4: Future Land Use Map and character areas followed by the recommendations which are policy statements to be used to guide Staff, Boards and Elected Officials and also includes the Implementation Table that includes strategies and actions which describe specific tasks to help the Town attain their goals.
- Chapter 6 includes all existing conditions and in the Appendix is the completed CAMA Matrix definitions, acronyms and the endangered species list.
- The ‘draft vision’ has not changed as was presented to the Board at a prior meeting and the twelve (12) goals have also remained the same; but, the Future Land Use Map shows areas that were changed and those that have remained the same.
- There are some character areas which include: invest and improve, maintain and enjoy, accommodate and adapt, acknowledge and conserve and parks and conservation areas.
- The Character Area Table shows a check mark under ‘invest and improve’ that highlights apartments, condos and townhomes which are areas that should be allowed and encouraged.
- In the invest and improve area and possibly a precedent in maintain and enjoy but this should be discouraged under accommodate and adapt and acknowledged and conserve.

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-4-

- The maroon areas are Future Use Investment areas to improve the high traffic corridor where there are commercial and employment activities which are potential for high intensity uses; apts, etc.
- Maintain and Enjoy are areas where residential uses and some small scale commercial areas are along 158 and highway 12 that also includes the Village Center along Kitty Hawk Road.
- Accommodate and Adapt are areas that are highly vulnerable to flooding but new elevated areas may also be included in this character area.
- Acknowledge and Conserve are low-lying areas that are not typically suitable for development.
- The Plan Recommendations that have been changed are the five required CAMA topic areas and local concerns.
- The Implementation Table on pages 4-5 covers implementation and if there is a CAMA-related topic there will be an "X" in that box: LUC, PA, ICC, NHA or WQ and if there is a CAMA requirement area, there will be an "L" for 'local concerns'. The last column on the Implementation Table indicates the timeframes showing required action by Staff, the Board, etc. These are short-term timeframes: 1-2 years; medium - 3-5 years and long-term 6-10 years.
- Mr. Richeson thanked Ms. Radford for her update and asked if the Board had any further discussion or questions or a motion and Mr. Merrill stated that he approved this be sent to the Council, Mr. Richeson seconded and the motion was approved unanimously.

7. **Text Amendment:**

- a. Text Amendment 42-414. Proposal to add 'mini-warehouse' as a 'special use' in the Planned Commercial District Overlay.
- The Proposal to add a 'mini-warehouse' as a 'special use' in the Planned Commercial District Overlay and has also provided a set of conditions of approval that is required for any 'mini-warehouse' proposal in the overlay district which are attached to the Staff Report.
 - The Planned Commercial District is intended to provide developers with an option by which they can achieve flexibility of design, the integration of useful and compatible uses and optimum land planning for greater efficiency, convenience and amenities that may be permitted as a right under other parts of the Zoning Ordinance.
 - Planning Commercial Districts can be approved within the BC-1, BC-2, BC-3 and BH-1 Zoning Districts if certain requirements are met and there also has to be five contiguous acres in size and not less than 500' of total road frontage on 158 or NC12 except that portions of the site may be separated by public or private rights-of-way by not more than 60' in width.

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-5-

- Currently, the Town permits a similar mini-storage facility as a 'special use' in the VC-2 District, the Village Commercial District and the proposed 'mini-warehouse' language is different from the current 'mini-storage' use that the Town currently has and that it requires it to be a fully enclosed building with the individual storage unit accessible from within the interior rather than the building that exists on Woods Road. i
- Mr. Testerman stated that if the Board recommends approval and once it then goes to the Council, the Applicant would have to agree to the changes. He recommended that the Board also add a 'definition' for 'mini-warehouse' to Sec. 42: "any facility storage within an enclosed building contain multi-storage units or rooms which are available to the general public for rental where the tenant or lessee has full control of the property that are stored in such units or rooms.
- Mr. Testerman stated that the 'purpose section' isn't needed because 'the purpose' the Zoning Ordinance for BR1 and 2 contains what is needed.
- Condition B-4: This Proposal states that free-standing sign of monumental type of construction authorized by the Council and that all building signage shall be first approved by the Council and Mr. Testerman recommended that this language should be omitted and plainly state that it has to be consistent with Division 3 of the Zoning Ordinance which is the 'sign regulation' and anything else would have to be consistent with the regulation to be approved.
- Mr. Testerman referred to the screen to show what the Applicant is proposing and at this time there is no site plan attached and that this is an example of what one 'mini-warehouse' could look like.
- The areas of Planned Commercial Developments; i.e., northeast part of Town where the Home Depot is and also part of Beachwoods and Woods Road where the new 7-11 is and the area behind it, and on the western area across the bridge is the Promenade where Commercial Developments are currently in the Town.
- If the Text Amendment is approved there would be a Public Hearing and would be applicable to the three areas mentioned but, should there be, in the future, an area of contiguous acres within the required road frontage, the Planned Commercial Development Overlay would apply.
- The Applicant, Mr. Goodrich stated that this proposal is not like any other 'mini-warehouses' that are popular, this would provide a storage facility for homeowners who are downsizing and for contractors where they could use it as a conference room for discussing plans, etc. The architectural control would be similar to an office building and Mr. Goodrich sees this proposal as a positive for the Town and all of Dare County.
- Mr. Spencer asked why Mr. Goodrich would need a specific Text Amendment for an enclosed facility where there is an Ordinance that allows 'mini-storage' facilities as a 'special use' and why did Mr. Goodrich not apply under the current Ordinance?

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-6-

- Mr. Goodrich stated that it would be easier for the Board to make that decision as the Town has the ultimate control
- Mr. Testerman stated that the only Zoning district that the Town has for 'mini-storages' which are currently allowed as 'special use permits' is in the VC-2 area off Kitty Hawk Road and a small area behind Herbert Perry and north on Woods Road where the Happy Boxes and cell phone tower is and these are the only two areas that are currently allowed as 'special use permit'. Mr. Testerman also stated that Mr. Goodrich wants to convey that he is not trying to open this up to the outdoor exterior storage and would like to have more control as an indoor facility to have better aesthetics that some of the larger outdoor storage facilities lack.
- Mr. Spencer stated that the simplest solution may be to NOT create a new Text Amendment, but to extend the 'mini-storage facility use ordinance' to the PCD rather than create something entirely new and also asked if the Town wants open 'mini-storage' everywhere which is not as attractive as an enclosed facility like the proposed Text Amendment.
- Mr. Richeson asked the purpose of a conference room and Mr. Goodrich stated that some facilities are used by contractors or people who work from home and Mr. Richson asked if this would be considered as 'conducting a business' and that to him, 'mini-storage' is where someone stores their stuff and not where people come to do business and to him, this may complicate things in the future.
- Mr. Testerman stated that PCD Overlay exists in BC-2 and this would allow for office space as a 'permitted use-by-right' and he doesn't see this as an issue in having available meeting room(s), but, if the Board or Council feels that is a condition needed, then the Board should state what is allowed and what is not
- Mr. Goodrich stated that these facilities are very expensive to build and that a very small amount of people would use any storage room as a 'conference room' and he also stated that this would require a security system, parking, septic system, etc. and that these units are not frequently visited by those who own them, but only if they need something already in the unit,.
- Mr. Richeson stated that he would rather see 'mini-storage' in the PCD than in the Village.
- Mr. Merrill stated that some of the language could be misinterpreted and therefore, there could be unintended consequences; i.e., Paragraph 5 'a mini-warehouse storage' is defined as having interior access but in Paragraph 5 it states, "in addition, all multi-story warehouse facilities that are accessed only from the interior" which is currently

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-7-

- happening, so, could this imply could someone build one that doesn't have the interior access? And 5A states that they shall be multi-storied and is that the intention, that it must be more than one story and if someone wanted to build a one story mini-warehouse they could not? And Mr. Testerman stated that was how the language was drafted.
- Mr. Merrill also referenced Paragraph 1 'outdoor accessory storage of recreational equipment is acceptable if hidden away, but storing other motorized vehicles is not permitted, but, what recreational equipment would be allowed to be stored?
- Mr. Goodrich gave an example of a travel trailer as a recreational vehicle but is also considered a motorized vehicle even though it doesn't have a motor and according to the State it is licensed as a 'motor vehicle.'
- Mr Testerman stated that it says 'recreational equipment' which is vague but it does not mean 'recreational vehicles?'
- Mr. Spencer wanted clarification if the Board is being asked to expand the area of the Town that can have a storage facility that is going to be a nice one and there lies the issue he has with this and that there are two districts that are allowed 'mini-warehouses/storage facilities' and comparing that to the PCD areas will this then double the geographic area of the Town where there can be storage facilities and Mr. Richeson asked if the Board passes the proposed Amendment, could there be another area beside the VC-2 area and Mr. Spencer stated that this is also what he understood and that the Town has a limited area where someone can have a 'mini-storage facility' and he feels that this Text Amendment would expand that to all PCD areas which are larger and how much area would be added and Mr. Testerman stated that the amount of land area comparable to what currently exists in the BC-2 District (Beachwoods/Home Depot) and that portion of PCD is built out and the proposed area is mostly vacant.
- Mr. Richeson stated good points were brought up, he would prefer that any 'mini-warehouse' to be anywhere except the Village.
- Mr. Testerman referred to Mr. Merrill's point regarding the areas may be vague and if the Board recommends approval, some of the vague statements would be modified to reflect the actual meaning and he could do that prior to submitting this to the Council or the Board could 'table' and cite 'specific areas' where these facilities could be and then the Proposal would come back to the Board for review, but the Board needs to be specific on the areas to be revised.

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-8-

- Mr. Spencer stated that he would like to know more about the expansion of the aforementioned area and how much larger is that area compared to the Districts that are already being permitted for 'special use.'
- Mr. Testerman stated that the area close to the promenade is approximately 25-26 acres and the six acres are around 42 acres plus the 6 acres and Mr. Spencer stated that, realistically, this Proposal would add approximately 30 acres of land to what is currently there where a storage facility could be built but there has to be 5 acres and 500' of frontage and that the only place where this could happen would be behind the 7-11 off of 158.
- Mr. Parker asked if this Proposal is for something that someone wants to do or is the Board only going through this Proposal in the hope that someone decides to build a 'mini-warehouse'?
- Mr. Spencer then stated that he can't accept this Proposal because of what is written in the "Mission of the Town" which he feels is contrary to the Town's Mission to expand an area for a storage facility.
- Mr. Goodrich stated that the proposed three acres are in an area of the Town where business is encouraged and Mr. Parker stated that the highlighted areas on the screen are already designated as commercial districts and with this Text Amendment, it would add a storage facility or a potential for one and that a storage facility is not considered a 'business' in general.
- Again, Mr. Testerman stated that there is no specific proposal or site plan and should the Board 'table' until the next meeting, the Board needs to specify the language/areas that should be edited/changed and the changes are in Paragraph 1, "consistent and working" and Paragraph 5, consistent with the definition of a 'mini-warehouse'.
- Mr. Richeson then made a motion to 'table' for the next Board Meeting based on Mr. Merrill's concerns regarding Sec P1 and Sec 5 and was passed unanimously

8. **Comments:**

- a. Chairman Richeson- Appreciated Mr Merrill's and Mr. Spencer's comments
- b. Planning Board Members: Mr. Spencer stated that towns' people are talking about affordable and employee housing and the Town has no room for 'mini-warehouses' and wondered if there would be any activity addressing the housing issues, but if the Town puts on five acres another storage facility the housing issues will still be there which are really needed and should come before adding another storage facility.
- c. Town Attorney - absent

Kitty Hawk Planning Board
Meeting Minutes
August 17, 2023

-8-

- d. Planning Director - Mr. Testerman stated that the areas that were discussed have 'conceptual approval' PCD in place for multi-family housing and if there are changes in the future that would coincide with the proposed Text Amendment, then the 'conceptual plan' would have to be revised and reapproved by the Board.
9. **Adjourn:** Hearing no further comments/concerns, etc., Mr. Richeson adjourned the August 17, 2023 Kitty Hawk Planning Board Meeting.

Respectfully submitted by Patricia Merski, Recording Secretary