

Kitty Hawk Planning Board Meeting
September 14, 2023 - 6pm
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance:

- a. Chairman Richeson called the September 14, 2023 Kitty Hawk Planning Board Meeting to order at approximately 6pm.

Members Present: Chairman Richeson, Bryan Parker-Vice Chairman; Chuck Heath, Jim Geraghty, Matt Spencer, Robert Testerman

Absent: Craig Merrill, Alternate; Casey Varnell, Town Attorney

- 2. Agenda:** Hearing no objections/corrections/additions to the Agenda, the Agenda was passed unanimously.

- 3. Minutes: August 17, 2023:** Mr. Richeson had a note from Mr Merrill stating that in the August 17 minutes, Paragraph 7, stated that Mr. Merrill made the statements; but, in fact, it was Mr. Spencer. After hearing the correction would be corrected, Mr. Richeson asked for a motion to approve the August 17 minutes and Mr. Parker made the motion to approve and Mr. Richeson seconded and the Minutes were approved unanimously.

4. Administrative Report: Town Council Meeting, September 5, 2023

Mr. Testerman stated that the Council adopted the Text Amendment regarding minimum lot size in the wetlands and also adopted the Land Use Plan to act as our comprehensive plan. (NOTE: Mr. Testerman stated that the Land Use Plan has to be certified by the CRC and Mr. Testerman verified with them to ensure that the decisions the Town is making are consistent with the Plan and since the Town has adopted this as our Comprehensive Plan and can justify the Town's decision on the new plan and any decisions that the CRC makes will be based on the 2023 plan until final approval.

5. Public Comment:

At this time, Mr. Richeson stated for the audience that the Planning Board is an 'advisory board' who makes recommendations to the Council and it is then up to the Council to agree/disagree, etc.

- There were three members of the audience that addressed the Board:

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-2-

- Three Members of the Audience presented:
- (1) Duke Geraghty, Director OBX Home Builders Association, stated that he is not clear on the intent of the proposed Text Amendment regarding 'short-term rentals'. He also stated that OBX has been a 'short-term rental' destination for at least 100 years and the destination for beach side rentals. He stated that he was in favor of the ADU Ordinance but, in Kill Devil Hills did not allow ADU's as 'short-term rentals'. He agrees that there is a housing shortage and there are possible benefits and also concerns about 'short-term rentals'.
- (2) Donna Creef, Government Affairs Director for the OBX Association of Realtors. She spoke about the Text Amendment regarding ADUs and 'short-term rentals'. She also stated that the OBX Association of Realtors have public policies that are adopted per the Town's policies and Land Use Plan and there is also a policy that encourages ADUs and a policy regarding 'short-term rentals.'
- She stated that the OBX Association of Realtors will support a property owner's right to rent their property on a short-term basis to guests and will monitor any local government effort to regulate any 'short-term rentals' to ensure rentals by licensed property management firms and Agents are not negatively impacted by the Third Party Marketing Plan Platform regarding rental activities.
- Based on the proposed Text Amendment regarding 'short-term rentals', Ms. Creef stated that it is inconsistent with the policy and actually comes down to a property owner's right to rent their property or house.
- She also clarified that sometimes the term 'short-term rental' and property management by licensed professionals, real estate agents, property managers and other agencies on OBX are subject to the NC Vacation Rental Act and these are sometimes grouped in the the Third Party Marketing Platform; i.e. Air BNBs which do not have the same accountability and do not operate under the same State Laws.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-3-

- Ms. Creef also stated that the concern is the broad generalization will impact the 'short-term' firms and how they will operate in Dare County. She also reviewed the Village Residential Zoning District and found that one of the uses that is current there is a bed & breakfast facility which allows for the rental of rooms on a daily or weekly basis to tourists, vacationers or transients which indicates that the transitory short-term occupancy in the Village Residential Zoning District.
- She also referenced Mr. Testerman's memo where the Board should look at the impact of 'short-term rentals' in other districts beyond the Village Residential Zoning District and what the impacts are associated with 'short-term rentals' that affect year-round neighborhood and also, as a reminder, the Association also collects 'occupancy tax' on vacation rentals which ultimately benefit the residents of the OBX.
- Also, the Board of Commissioners adopted the Land Use Plan which she reviewed and stated that one of the policies that is referenced in Mr. Testerman's memo is the Land Use Compatibility Policies that states:, "The Town will monitor and reduce the impact of ADUs and 'short-term rentals' in the Village Residential Zoning District. She stated that her original comments would have been completely different if the Policy stated that the Town was going to consider a prohibition on 'short-term rentals' and the Association is opposed to that policy.
- (3) Amy Wells, Applicant for the proposed Text Amendment concerning 'short-term rentals' and is concerned that the definition describes 'short-term rentals' as 'commercial short-term rentals' where there are more than one per lot and that a developer could buy several lots or a tract of land, divide them and build houses and according to the Town's regulation, two houses can be on one piece of property.
- Per a discussion with a Council member when ADUs were introduced, they were generally seen as a 'mother-in-law' suite or a place for relatives to stay on vacation and that the original intent of the ADU has moved away from that definition.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-4-

- Ms. Wells stated that her concern is that ‘short-term rentals’ were not much of a problem until recently due to the change in the population of the OBX and she stated that the Text Amendment is not a restriction on all ‘short-term rentals’. There are several options in the Text Amendment for an opportunity for the Board and Council to discuss and make recommendations where the neighborhoods are protected but also allow for other places to have ‘short-term rentals’ that want them and would be better suited for ‘short-term rentals’ beside the Village Residential Zoning District.
- Ms. Wells also stated that short-term rentals have some disadvantages in certain zones; i.e., strictly residential areas; guests not respecting the speed limit, etc.
- 6. Unfinished Business:**
 - a. Text Amendment 42-414 - Proposal to add mini-storehouse as a ‘special use’ in the Planned Commercial District Overlay.
- Mr. Testerman stated that at the August, 2023 Planning Board Meeting, there were some concerns from the Board concerning the language. Further information was also requested regarding the proposed amount of land that could be affected by the Text Amendment and as noted last month, the mini-storage facility currently is classified as a ‘special use’ in the BC-2 District which is the older exterior outdoor mini-storage facilities.
- The VC-2 District makes up approximately 53.5 acres in Kitty Hawk and the current proposal is to allow the indoor mini-warehouse in the Planned Commercial District Overlay which makes up approximately 70 acres and approximately 25.5 of those acres are developed that includes the Home Depot and the Lodge at Beachwoods and the areas that are not developed is another of the Beachwoods property, the Promenade and the vacant parcel behind the 7-11.
- Sec. B-1: greater detail was requested as to what is considered ‘recreational equipment’ which would be permitted to be stored outside the mini-warehouse providing it was screened from view.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-5-

- Mr. Testerman stated that in discussion with the Applicant, the Applicant 'has chosen to omit the sentence referencing 'recreational equipment' that would be allowed.
- Sec. B-5: Clarification on the intent for all mini-warehouse facilities be required to be multi-storied or if the regulation listed in B-5 would only be applicable if the mini-warehouse was to be multi-storied and the Applicant clarified removing B-5 and the conditions listed are for 'stand alone conditions of approval.'
- Mr. Testerman referenced the last page of the Staff Report that the current proposal with the revisions made after meeting the Applicant were as follows:
 - Would be a 'special use' in the Planned Commercial District Overlay would state that all storage mini-warehouse facilities shall be within a completely enclosed building; keeping/storing or parking any type of motor vehicle equipment outdoors would be prohibited; moving truck owned by the facility would only be allowed for any tenants for a 'move in' or 'move out' transaction.
 - Section B - a street level loading area shall be permitted as part of the storage facility; pit loading docks will not be permitted.
- C - Storage of hazardous or flammable materials shall not be permitted.
- D - Tenant identification signs and advertising signs are prohibited and all signs should complement the exterior of the building design and construction. All building signage shall be consistent with Division 3 of the Chapter.
- E - Mini-warehouse storage facilities shall be designed to emulate either multi-family or office buildings.
- F - Access to the buildings shall be monitored by electronic security and or facility staff at all times.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-6-

- G - buildings shall consist of the following elements: 1) building shall be oriented toward the street with a functional primary entrance over the side facade; 2) provide facade treatments with the greatest amount of detail and refinement toward the street. A variety of the following features shall be incorporated into each building facade design; color and/or texture differences, recesses or projections including roof overhangs, awnings, peaked or articulated roof forms, raised cornice, parapets, canopies or protocols over actual pedestrian entryways; 3) primary materials shall include but not limited to brick or brick masonry veneer, stone (colored textured concrete block and metal panels and siding.)
- Mr. Testerman stated that he had comments from Mr. Merrill who could not attend the meeting were as follows: Sec. 42-1 - Definition - Mr. Merrill noted that there should be criteria that the individual storage units are accessed from the interior of the building and if the Board agrees that language could be added; Sec. 42-414 E4 Subparagraph A - Mr. Merrill noted that the second sentence is not necessary - keeping, storing or parking any type of motor vehicle or outdoor equipment is prohibited.
- Also, a grammatical correction to Sub Paragraph E - Mr. Merrill noted that this can imply how the interior of the buildings are arranged but the intent is to regulate the exterior and to consider rewording the exterior of the mini-warehouse facilities shall be designed to emulate multi-family or office buildings. Paragraph G-3: Mr. Merrill noted that it is not clear that these provide any value or enforceable regulation, primary materials, brick masonry, veneer, stone, any colored textured concrete block or metal panels or siding.
- Mr. Goodrich stated that the current structure is different from what a mini-warehouse is which is a totally enclosed building under 600 sf and that the Town has stated that the Planned Commercial Development Overlay has to be five acres and that the facility that is being proposed would only take up one and a half acre and would be a stand alone building.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-7-

- Mr. Goodrich stated that the amount of acres that would be allowed is 53 acres and the only two lots not developed are the Promenade and the vacant lot behind 7-11. Mr. Goodrich also stated that this would not be a good fit for the Village and would look out of place and near an accessible highway. He also stated that the Town would have control of the above mentioned items and that this facility is part of a whole planned market development which would consist of retail, multi-family and the mini-warehouse.
- Mr. Richeson asked if approved, would this require a redrafting of the site plan which was originally approved and Mr. Testerman stated that this Planned Commercial Development Overlay already has an approved conceptual plan that was part of the Planned Commercial Development Overlay approval; therefore, if it gets approved, this would come back to the Board as a 'special use application' and would need to have a 'revised conceptual plan' for the Planned Commercial Development Overlay would have to be approved in addition to the 'special use permit' also being approved.
- Mr. Richeson asked if the approval can be given at this meeting and Mr. Testerman stated 'yes' and Mr. Parker asked, if approved, what would happen to the rest of the plan and Mr. Testerman stated that the 'conceptual plan' would restart the Planned Commercial Development Plan process and would be proposed and a revised plan would then be either approved or deny the revised 'conceptual plan.'
- Mr. Richeson wanted clarification that a 'mini-warehouse' is different than a mini-storage unit regarding appearance and the way the operation is conducted and utilized and Mr. Testerman stated that the proposed definition would be required to be an interior building accessed only from one door; therefore, the proposed definition of mini-warehouse means any storage facility within an enclosed building that contains multiple storage units or rooms which would be available to the general public for rental where the tenant or lessee has sole control over the property that

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-8-

is stored in such units or rooms. “Key Words” - enclosed in a building containing multiple storage units.

- Mr. Richeson asked how Mr. Merrill’s suggestions would be handled and Mr. Testerman stated regarding the definition would be included in the motion to revise the definition per Mr. Merrill’s comments and Mr. Richeson suggested ‘as described by staff’ with the addition of the criteria that the individual storage units are accessed via the interior.
- Mr. Geraghty made the following motion: ***“I recommend the approval of the proposed Text Amendment allowing mini-warehouses as a ‘special use’ within the Planned Commercial District Overlay as described by Staff and the Board has found this proposal to be consistent with the Town’s Land Use Plan” and Mr. Richeson seconded and the motion was passed on a 3-2 vote.***

6.B - Text Amendment 502 - Temporary Uses; 18-11, Outdoor Events and Gatherings. Revised Proposal to address temporary outdoor markets And outdoor Events and Gatherings.

- Mr. Testerman stated that the Town Council adopted a portion of the Proposal regarding commercial yard sales and temporary uses allowing Staff to change to approve but was originally written that as a ‘special use’ that Council had to approve.
- Regarding the temporary markets and outdoor gatherings, Mr. Testerman met with the Fire Chief and Police Chief who had some safety concerns and Mr. Testerman referred to the section outlined in bold for 42-5026:
 - Subsection G states that temporary outdoor markets shall not interfere with any potential fire, police or any other emergency responder needs on site as determined by the Town:

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-9-

- “New language additions: tents or canopies associated with the market must be secured to resist movement during windy events and drive aisles and parking areas shall be utilized for temporary markets and shall be closed to regular vehicle traffic and the same language was added to Sec. 18-11, the Outdoor Events and Gatherings Section.
- Mr. Testerman referenced Mr. Merrill’s comments: G-1: may want to consider adding language that ‘signage, merchandise, etc. should also be secured to resist movement during wind events and if approved, the language would also pertain to 18-11:
- 18-11 - C-7: possibly consider rewording ‘description of the area that will be closed to vehicular traffic and proposed traffic and parking control in the vicinity of the event.
- Mr. Richeson suggested that ‘what is used to secure the canopies/tents should be defined; i.e., metal stakes and how these would be secured. And Mr. Testerman stated that once tents/canopies are set up and secured, they would be inspected and he also stated that there is a sketch indicating exactly where they would set up their tents/canopies and where the traffic would be blocked from accessing that area.
- Mr. Richeson asked if this required a separate motion and Mr. Testerman stated that is the Board is fine with both definitions as they are, they can be approved together but they were presented as two separate items.
- Mr. Parker made the following motion: ***“I recommend Sec. 42-5026 & Sec. 18-11 - Temporary Outdoor Markets and Outdoor Events and Gatherings for approval and the Board has found this proposal consistent with the Town’s Adopted Land Use Plan.” Mr. Geraghty seconded and the motion was approved unanimously.***

7. Commercial Site Plan Review: Proposed site modification for existing commercial development at 3600 Croatan Highway.

- Mr. Testerman stated that the Applicant submitted the Site Plan Modification request at 4194sf of storage area to the existing 11,005sf commercial structure. The existing structure was originally constructed as

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-10-

A bank several years ago and CRT Sales & Services relocated their business and that facility, and a previous addition was constructed that closed off the drive-thru that created an additional workspace.

- The 'proposed addition' is greater than 15% of the existing structure and based on the Town's Ordinance for a minor modification goes beyond the threshold; therefore, this cannot be approved administratively, and the goal is to make sure the zoning requirements are met.
- The proposed use is a storage addition for the existing Permitted Commercial Use, square footage to equal 15,199 sf which is below the 25ksf maximum in the BC-1 District. The parcel is approximately 1.5 acres and the Applicant has not presented Staff with the proposed lot coverage and on the site plan, D-1 out of D-3, the majority of the addition is going over existing asphalt and a drive aisle that currently runs along the north side of the building and behind; therefore, the only section taking up any lot coverage area would be in between the north side of the existing building and the drive aisle that runs along that side of the building.
- The Applicant indicated that he also intends to take out the asphalt which would no longer serve a purpose on the north side of the building.
- If the Board approves as is, or not, Mr. Testerman can require the Applicant provide Staff with the calculations before this would go to Council for final approval. The building height per the elevation drawings provided do not have the existing total height but the addition walls are approved 20' in height which is lower than the existing roof peak and compliant with the 35' height maximum. Setbacks in the BC-1 District requires a 10' side setback and as shown on the sheet, D-1 is compliant with that requirement and the BC-1 District requires a 50' separation from commercial structures to an adjacent residential zone.
- The proposed back end of the structure is 52.5' from the rear property line and is also compliant and there would be no change to the front side of the building with no impact to the setback. The Land Use Plan designates the subject property as an 'invest and improve area' on the Future Land Use Map and this designation for this area is primarily in a high traffic

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-11-

Corridor where commercial or employment already exists or where conditions create the potential for higher density uses and development. Mr. Spencer asked if this were a 'start from scratch project' would this have come before the Board and Mr. Testerman stated 'yes' and that the minor site plan modification can be done by Staff if the lot coverage or building size changes by less than 15% but due to the scale of the proposed addition, this exceeded the required the amount and Mr. Spencer asked if this were not a 'modification of the site plan' and came to Staff as a vacant lot with all of this shown, would it still have been presented to the Board and Mr. Testerman stated 'yes' even as a 'permitted use' and the Ordinance states that all site plan approvals must go to the Board and Council for approval.

- Mr. Spencer stated, that except for the lot coverage which is a question, everything would be in compliance and Mr. Testerman stated 'yes'. He also stated that when the Applicant provides Mr. Testerman with the final % and if it exceeds the 60% maximum there would be options that the Applicant could have; i.e., replace some of the parking area with permeable pavement and the Town would then allow additional lot coverage for this situation or to take some additional lot coverage out or some pavement out and Mr. Richeson asked if that contingent would need to be part of the motion and Mr. Testerman stated 'yes' about the the lot coverage requirement.
- **Mr. Spencer made a motion provided the Applicant can show that the lot coverage does not exceed existing approved standards and would therefore recommend approval of the site plan for 3600 N. Croatan Highway and Mr. Richeson seconded and the motion was adopted unanimously.**

8. Text Amendment: a) Text Amendment 42-581 - Signs on the public right-of-way or on public property. Proposed language addition to allow digital message boards to be erected on public property by a Governmental body.

- Mr. Testerman stated that a Public Hearing has been scheduled for the October, 2023 Town Council Meeting. The Proposal 42-581 is public signs

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023
-12-

Erected by or on behalf of a Governmental body to post legal notices identified, public property, convey public information and direct or regulate pedestrian vehicular traffic and also states, such public signs shall include visual message board signage and additional signage permitted by this Chapter.

- The intent behind this Proposal and with the development of the new police department building, the new Police Chief and Town Manager spoke about putting a message board to relay information to visitors and residents; i.e., storm warnings, evacuation information, Town and Planning Board Meetings, etc.
- Mr. Testerman stated that he and Mr. Varnell, Town Attorney, spoke about this Proposal concerning the language in the Proposal and determined that we can probably do this already, but that it is best to actually spell out the Proposal for the Ordinance.
- Mr. Parker asked if near the new Police Station was the only area where the message board would be located and Mr. Testerman stated that there would be public signs by or on behalf of a Governmental body and would not open it up to any private business, etc.
- Mr. Parker stated that the Proposal for the message board shall not impede any line of sight, etc.
- Mr. Richeson then made a motion to approve the Proposal; ***“I recommend approval of Text Amendment 42-581 and the Board has found this to be consistent with the ‘Town’s Adopted Land Use Plan” and Mr. Heath seconded and the motion was approved unanimously.***
- **Text Amendments 42-1; 42-273; 42-528. Applicant proposes language to define/regulate short-term rentals in the VR-1 District.**
- The discussion on these proposed Text Amendments centered around; what is a short-term rental; what is the definition of a short-term rental; what are the advantages/disadvantages of having short-term rentals in Kitty Hawk; can a primary structure be considered a short-term rental;

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-13-

- Can a primary structure with an Accessory Dwelling Unit be considered a short-term rental, etc.
- Mr. Testerman stated that the Proposal includes three new definitions to the Zoning Ordinance. First is for long-term rentals which means a dwelling unit or a portion thereof including Accessory Dwelling Units that can be used for overnight lodging; accommodations that is provided for renters for longer than 30 days; principle dwelling means the 'main dwelling' on a site on which an Accessory Dwelling Unit exists and in the absence of an ADU, the residential structure on site would be considered the principle dwelling and short-term rental means a dwelling unit or a portion thereof, including ADUs that can be used for overnight lodging accommodations that is provided to renters for no longer than 30 days.
- The second: The Applicant does not have a specific request at this time but the two presented are in the VR-1 District, low-density Village Residential District under permitted uses states: "A detached, single-family dwelling permitted use by-right; detached single-family dwellings are not to include mobile or pre-manufactured homes; principle dwellings shall not be used as 'short-term rentals' and the second option would allow short-term rentals for principle dwellings but would require additional standards to be met. In the 'permitted uses, short-term rentals would be limited to one unit per parcel provided that the short-term rental has a side yard setback of 15' and includes type A or B vegetative buffer found in Sec. 42-654 and would provide one parking space.
- The third part of the proposed Amendment, Sec. 42-528 deals with ADUs and proposes to change from one additional off-street parking space up to two and also states that in the BR-1 District, ADUs used for short-term rentals must have owner occupancy or the long-term rental principle dwelling on site.
- Mr. Testerman stated that short-term rentals are very important to the people residing in Kitty Hawk and on the OBX.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023
-14-

Short-term rentals should also be considered on how this affects certain portions of the Town which have been traditionally been residential, non-transient neighborhoods and the submitted Proposal attempts to address this in different ways and the Application is specific to VR-1 and the Board should consider the appropriateness for short-term rentals in other Districts.

- The Applicant and Staff have presented two separate options for the VR-1 District and the Amendment regarding ADUs; should the Board find either option favorable, this could be considered as the same regulation and would be appropriate in other Village Residential Districts or would it be limited only to the VR-1 District.
- The majority of the residential development in the Beach Residential Districts are short-term vacation rentals and this Proposal would not be recommended for this area.
- The Proposal that amends 42-528, ADUs, would require one additional parking space for the ADU then what is currently required and that there is also proposed State Legislature, that if approved, would strip the localities of the ability to establish minimum parking requirements for ADUs.
- The Town's current requirement is one space per occupant authorized by the Septic Permit or one space per 600sf of living space; whichever is less and this would still apply to the ADUs and if additional parking may be needed.
- The new proposed subsection would require, if an ADU is used for a short-term rental, the primary residence be either owner occupied or be used as a long-term rental and per the newly adopted Land Use Plan, Policy 3-4 encourages residential that fits Kitty Hawk's character; maintain zoning regulations to protect the character of Kitty Hawk's neighborhoods; continue to maintain regulations that encourages mostly single-family homes; maintain the overall residential character of Kitty Hawk and monitor trends and reduce the impact of ADUs and short-term rentals in the Residential Zoning Districts.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023
-15-

- Mr. Testerman stated, if the Board and Council ‘want to move forward with the proposed Amendment prohibiting VR-1 or allowing additional regulations over the ADUs on the regulations that are currently enforced or ‘grandfather’ them in.
- He also referenced the School of Government where there is a court case in Wilmington that states that a Town is allowed to define a short-term rental as Land Use and to set additional standards but there cannot be a registry to keep track of short-term rentals and how to apply any additional standards if there is no registry.
- Mr. Richeson stated that he would prefer to discuss this with Mr. Varnell, Town Attorney due to the impact this may have going forward and he also stated that a short-term rental can also be an ADU but an ADU may or may not be a short-term rental; i.e., using it as a mother-in-law suite for family and by definition it is not considered a short-term rental, it’s an ADU and Mr. Testerman stated that this proposal would not change the definition.

Mr. Richeson stated that if not for family use then it is considered a short-term rental and Mr. Richeson would like clarification on ‘permitted uses’ which states, ‘the following uses shall be ‘permitted-by-right’; single-detached family dwellings are not to include manufactured homes and principle dwellings shall not be used as short-term rentals’ and in effect asked if someone resides in a principle dwelling is it considered a short-term rental and Mr. Testerman stated that a principle dwelling, as listed in the proposed definition, a main dwelling on a site in which an ADU exists and in the absence of an ADU in the residential structure on site is considered the principle dwelling; i.e., primary house and an ADU, the house is considered the primary dwelling.

- Mr. Richeson wanted clarification that there cannot be a short-term ‘rental by itself on a lot and ‘yes’, if that is what the Town wanted to do.

Kitty Hawk Planning Board
Meeting Minutes
September 14, 2023

-16-

- Mr. Spencer felt strongly that this is definitely a discussion that the Board should have with Mr. Varnell, Town Attorney and he cited the current law stating that the Town has no right to require registration or permission for someone to rent their property, so, how can that be prohibited and again, discussion with Mr. Varnell and that the Wilmington case has specifically focused on the registration requirement and there was no ban by the Court, that this has to be researched and doesn't want Kitty Hawk to be a 'test case' in the NC Court of Appeals.
- Mr. Parker asked if the language could state 'no short-term rentals in the VR-1 District' and Mr. Testerman stated that could be a possibility based on the School of Government guidance
- The Applicant approached and stated that this is a complex issue and is also happening across the country and in neighborhoods where there are a lot of vacation rentals mixed in which reverts back to the zoning in the residential district. She also provided Mr. Testerman with research that she has done about what other towns/cities across the country are doing.
- Mr. Richeson made the motion to 'table' until the Board can meet with Mr. Varnell for his opinions and guidelines and Mr. Parker seconded and the motion was unanimous.

9. Comments:

- a. Mr. Richeson - thanked the Board for their work
- b. Board Members - none
- c. Town Attorney - absent
- d. Planning Director - Mr. Testerman stated that the October meeting will be held at a later date as he will be out at a conference on the regular meeting date.

10. **Adjourn:** Hearing no further comments/objections, etc. Mr. Richeson adjourned the September 14, 2023, Kitty Hawk Planning Board Meeting at approximately 7:15 pm.