

Post Office Box 549
101 Veterans Memorial Drive
Kitty Hawk, NC 27949



Phone (252) 261-3552
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www.townofkittyhawk.org

**Kitty Hawk Planning Board Meeting
May 16, 2024 ~ 6:00 p.m.
Kitty Hawk Municipal Building**

Agenda

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. Draft minutes of the April 25, 2024 meeting
4. Administrative Report:
 - a. Town Council Action - 5/6 meeting
5. Public Comment
6. Site Plan Modification
 - a. 4007 N Croatan Hwy – Applicant proposes addition for existing commercial structure
7. Text Amendment
 - a. Minimum lot size. Sec. 42-1, 42-247, 42-248, 42-249, 42-273, 42-274, 42-275
 - b. Accessory Workforce Housing. 42-1.- Definitions;
8. Comments:
 - a. Chairman Richeson
 - b. Planning Board Members
 - c. Town Attorney
 - d. Planning Director
9. Adjourn

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MEMORANDUM

TO: Chairman Richeson and Members of the Planning Board
FROM: Rob Testerman, AICP, CFM, CZO, Planning Director
DATE: May 16, 2024
RE: **Site Plan Modification: 4007 N Croatan Hwy, Beach Food Pantry**

Proposal

The applicant has submitted a site plan modification request to add 1,410 sq. ft. to the rear of the existing 1,880 sq. ft. commercial structure. The property is in the BC-1 zoning district. Abutting the parcel to the south is a retail mattress store, and a single-family residence, both zoned BC-1. To the east, across Lindbergh Ave are single-family residences, also zoned BC-1. Abutting the parcel to the north is Vacasa, vacation rental management, zoned BC-1. To the west, across US 158 is Guy C Lee building supplies, zoned BC-2.

Per Sec 42-1, because the proposed addition is greater than 15% of the existing structure, it is does not qualify as a minor modification, thus the site plan modification must be reviewed by the Planning Board and Town Council.

This is an administrative decision, meaning that the only permissible criteria used in the decision making process is whether or not the proposal meets the requirements dictated by the zoning ordinance.

Staff Analysis

Proposed Use: Addition for existing permitted commercial use, total square footage of the structure to equal 3,290 sq. ft., which below the 25,000 sq. ft. maximum for the BC-1 district.

Lot Coverage: Maximum allowable lot coverage is 60%. Existing lot coverage is 10,703, or 54.7%. The proposed addition does not expand lot coverage, as it is located over existing covered area. The proposal includes removal of 457 sq. ft. of existing asphalt, reducing the proposed lot coverage to 10,246 sq. ft., or 52.36%

Building Height: Proposed total height of the addition has not been provided, however, per the attached elevation drawings, the proposal is for a two-story addition. Scaled at 1/8"=1', the proposed building height for the addition appears to be approximately 32'. Maximum allowable building height is 35'.

Setbacks: The BC-1 district requires a 10' side setback, 15' front setback and 20' rear setback. The proposed addition, per the site plan, meets the minimum setback requirements. Although

there are single-family residences located to the rear of this property, those residences are in a commercial zoning district, so there is no additional separation requirement.

Wastewater: Prior to any building permits being issued, a copy of a permit from Dare County Environmental Health would be required.

Land Use Plan

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the subject property as a "Invest & Improve" on the future land use map. This designation is for areas primarily in high traffic corridors, where commercial or employment activity already exists, or where conditions create the potential for higher intensity uses and development. See Page 42 of the newly adopted CAMA Land Use Plan for more information.

Planning Board Action

The Planning Board has been asked to provide the Town Council with a recommendation regarding the site plan for the Beach Food Pantry expansion.

Should the Planning Board decide to recommend approval of the proposed site plan, the motion could be worded in the following manner:

"I move to recommend approval of this site plan modification at 4007 N Croatan Hwy."

Should the Planning Board decide to recommend **denial** of the proposed site plan, the following motion could be used:

"I move to recommend denial of the site plan modification at 4007 N Croatan Hwy [insert denial justification into motion]."

Directions to the Subject Property

(from Kitty Hawk Post Office, N. Croatan Highway & Kitty Hawk Road)

Turn right, heading north on N Croatan Highway

Drive north for 0.3 miles

The subject parcel will be on the right

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MEMORANDUM

TO: John Richeson and Members of the Planning Board
FROM: Rob Testerman, AICP, CFM, CZO, Director of Planning & Inspections
DATE: May 16, 2024
RE: **Text Amendment: 42-1, Definitions – Minimum Lot Size**
Sec. 42-247, 42-248, 42-249, 42-273, 42-274, 42-275

Note: A zoning text amendment decision is a *legislative decision*. In forming its recommendation, the Board may use public comment and opinion on the matter.

Proposal

42-1.- Definitions

Minimum lot size means the minimum lot area as required by the various zoning districts. Marsh and wetland areas, as determined by Federal, State, and Local Agency regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements **except as provided by the various zoning districts.**

BR-1; 42-247(d)1: The minimum lot size is 15,000 square feet **of uplands**. Marsh and wetland areas, as determined by Federal, State, and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, **except that for lots comprising a minimum area of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.**

BR-2; 248(d) (1)The minimum lot size is as follows:

- a. For single-family detached residences, a minimum lot size of 15,000 square feet **of uplands**. Marsh and wetland areas, as determined by Federal, State, and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, **except that for lots comprising a minimum area of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.**
- b. For duplexes, a minimum lot size of 25,000 square feet **of uplands**. Marsh and wetland areas, as determined by Federal, State and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, **except that for lots comprising a minimum of two (2) acres, uplands shall not be required to be continuous, contiguous, and connected.**
- c. For multifamily dwellings, ~~for each acre or portion thereof,~~ a minimum lot size of 15,000 square feet **of uplands** for the first dwelling unit and a minimum lot size of 9,520 square feet **of**

uplands for each additional dwelling unit. Marsh and wetland areas, as determined by Federal, State and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.

BR-3; 42-249(d) (1)The minimum lot size is as follows:

- a. For single-family detached residences, a minimum lot size of 15,000 square feet of uplands. Marsh and wetland areas, as determined by Federal, State, and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum area of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.
- b. For duplexes, a minimum lot size of 25,000 square feet of uplands. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum of two (2) acres, uplands shall not be required to be continuous, contiguous, and connected.
- c. For multifamily dwellings, a minimum lot size of 15,000 square feet of uplands for the first dwelling unit and a minimum lot size of 9,520 square feet of uplands for each additional dwelling unit. Marsh and wetland areas, as determined by Federal, State and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.

VR-1; 42-273(d) The minimum lot size is 15,000 square feet of uplands. Marsh and wetland areas, as determined by Federal, State, and Local Agency regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum area of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.

VR-2; 42-274(d) (1)The minimum lot size is as follows:

- a. For single-family detached residences, a minimum lot size of 15,000 square feet of uplands. Marsh and wetland areas, as determined by Federal, State, and Local Agency regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum area of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.
- b. For duplexes, a minimum lot size of 25,000 square feet ~~for each acre~~ of uplands. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum of two (2) acres, uplands shall not be required to be continuous, contiguous, and connected.

c. For multifamily dwellings, ~~for each acre~~, a minimum lot size of 15,000 square feet of uplands for the first dwelling unit and a minimum lot size of 9,520 square feet of uplands for each additional dwelling unit. Marsh and wetland areas, as determined by Federal, State and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.

VR-3; 42-275(d) (1) The minimum lot size is as follows:

a. For single-family detached residences, a minimum lot size of 15,000 square feet of uplands. Marsh and wetland areas, as determined by Federal, State, and Local Agency regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum area of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.

b. For duplexes, a minimum lot size of 25,000 square feet ~~for each acre~~ of uplands. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum of two (2) acres, uplands shall not be required to be continuous, contiguous, and connected.

c. For multifamily dwellings, ~~for each acre~~, a minimum lot size of 15,000 square feet of uplands for the first dwelling unit and a minimum lot size of 9,520 square feet of uplands for each additional dwelling unit. Marsh and wetland areas, as determined by Federal, State and Local Agency regulations, and areas waterward of the oceanfront vegetation line, as determined by CAMA regulations, may not be used for the minimum lot size. All upland areas must be continuous, contiguous, and connected to meet the minimum lot size requirements, except that for lots comprising a minimum of one and one-half (1½) acres, uplands shall not be required to be continuous, contiguous, and connected.

Background & Analysis

Within the past 6-8 months, a text amendment was adopted that excluded any type of wetland from being included in minimum lot size calculations. A subsequent text amendment was submitted, and approved, which now require the upland areas be “contiguous, continuous, and connected.”

As was noted during public comment during both the Planning Board review and the Public Hearing for the second text amendment. The language as was adopted will likely have an adverse impact on wetlands if a property owner desires to subdivide their land. A property owner could simply take the required steps to fill wetlands to create 15,000 sq. ft. of “contiguous, continuous, and connected” uplands prior to submitting a subdivision application.

The applicant has proposed language that would incentive a developer to subdivide into fewer, larger parcels, as it creates an exemption from the “contiguous, continuous, and connected” requirement if the proposed lots are greater than 1.5 acres for single-family dwellings, 2 acres for duplexes, and 1.5 acres per dwelling unit for multi-family dwellings. This could potentially negate the need for the developer to take on the expense of purchasing fill material, and hiring

labor to do the work to fill wetlands to create the required amount of upland area. In turn, this would also reduce the density of the development.

It should be noted that this proposal does not require that a potential developer take this route, they would still have the option of disrupting the natural landscape to create the 15,000 square foot of upland area if they desired to develop more, smaller lots, assuming all necessary permitting was done ahead of time.

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

Policy 3.1: Manage land use and development to minimize primary and secondary impacts on resources and existing residents through standards for developments.

Policy 3.4: Encourage residential that fits Kitty Hawk's character.

» Maintain zoning regulations that protect the character of Kitty Hawk's neighborhoods.

Policy 4.1: Encourage the preservation of maritime forest, floodplains, marshes and wetlands through development regulations and land protection initiatives.

Planning Board Action

The Planning Board is asked to provide the Town Council with a recommendation regarding the text amendment proposal.

Should the Board decide to recommend **approval** of the proposed text amendment, the motion could be worded in the following manner:

"I recommend approval of the proposed text amendments to the sections listed in this staff report, as related to minimum lot sizes. The Board has found this proposal to be consistent with the Town's adopted land use plan."

Should the Board wish to recommend **denial** of the proposed text amendment, the following motion could be used:

"I recommend denial of the proposed text amendment relating to minimum lot sizes. The Board finds that this proposal is inconsistent with the Town's adopted land use plan [Insert any additional justification]."

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MEMORANDUM

TO: John Richeson and Members of the Planning Board
FROM: Rob Testerman, AICP, CFM, CZO, Director of Planning & Inspections
DATE: May 16, 2024
RE: **Text Amendment: 42-1, Definitions – Accessory workforce habitation;
Accessory workforce housing**

Note: A zoning text amendment decision is a *legislative decision*. In forming its recommendation, the Planning Board may use public comment and opinion on the matter.

Proposal

42-1.- Definitions

Accessory use workforce habitation means the use of a building or portion of a building for habitation by seasonal or year-round Outer Banks workforce as an accessory use to approved permitted or special uses within non-residential zoning districts, or as an accessory use to approved permitted or special use multi-family residential uses; short-term occupancy by any individual(s) intended for a period of less than thirty (30) consecutive days is specifically excluded from this definition.

Accessory workforce housing means real property improvement specifically for the purpose of housing accessory workforce habitation; housing may be within or attached to a primary structure, or may be a separate accessory structure, within an non-residential zoning district or an approved multi-family development site; housing gross area shall not exceed ten percent (10%) of the approved primary use gross floor area; a dwelling unit shall not exceed 750 square feet gross area, and shall not have an occupancy of greater than two (2) persons plus a dependent of either of the two (2) aforementioned persons; no on-site parking space shall be required provided for each dwelling unit.

Background & Analysis

The proposed language would provide commercial property owners in Kitty Hawk with greater flexibility, providing the opportunity to develop small scale residential uses on site to provide for housing for the workforce in the area.

As an example, a commercial development that has a gross floor area of 15,000 sq. ft. would be permitted up to 1,500 sq. ft. (10% of 15,000 sq. ft.) to dedicate as accessory workforce housing. As the definition caps the size of the dwelling at 750 sq. ft., this could result in two units on the commercial site.

All setback and lot coverage requirements would still apply to the development.

Currently, the Town allows apartments over permitted commercial uses as a special use permit. This definition differs from that use in that what is currently allowed as a special use permit has no size limit for the dwelling, or for the overall square footage that can be used as residential. It also requires one additional parking space per bedroom.

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

Policy 3.5: Encourage affordable and workforce housing in and around Kitty Hawk.

» Affordable and workforce units should be located within or near the Invest and Improve areas on the Future Land Use Map.

» Consider adjustments in dimensional requirements and density allowances to allow for additional housing types in some zoning districts.

» Consider increasing allowances for small-scale attached housing (i.e. duplexes, triplexes or quadplexes) in some areas with performance design standards. (minimum lot size, buffer requirements, etc.).

Planning Board Action

The Planning Board is asked to provide the Town Council with a recommendation regarding the text amendment proposal.

Should the Board decide to recommend **approval** of the proposed text amendment, the motion could be worded in the following manner:

“I recommend approval of the proposed text amendments to Sec. 42-1, adding definitions for ‘accessory use workforce habitation’ and ‘accessory workforce housing’. The Board has found this proposal to be consistent with the Town’s adopted land use plan.”

Should the Board wish to recommend **denial** of the proposed text amendment, the following motion could be used:

“I recommend denial of the proposed text amendments to Sec. 42-1. The Board finds that this proposal is inconsistent with the Town’s adopted land use plan [Insert any additional justification].”