

Kitty Hawk Planning Board Meeting  
June 27, 2024 – 6 p.m.  
Kitty Hawk Municipal Building, Smith Room

Minutes

The Town of Kitty Hawk Planning Board held its regularly scheduled meeting on Thursday, June 27, 2024. This meeting was held in the Smith Room at the Kitty Hawk Municipal Building, 101 Veterans Memorial Drive, Kitty Hawk, NC.

**1.) Call to Order/  
Attendance:** 6:00 p.m.

**Members Present:** John Richeson, Chairman      Chuck Heath, Member  
Jim Geraghty, Member      Matt Spencer, Member  
Craig Merrill, Alternate

**Members Absent:** Brian Parker, Vice Chairman, Blair Meads, Alternate

**Others Present:** Rob Testerman, Planning Director; Casey Varnell, Attorney;  
Jessica Everett, Administrative Zoning Technician

**Voting:** Due to Vice Chairman Parker's absence, Alternate Craig Merrill will vote at this meeting.

**2.) Approval of Agenda:**

**MOTION**

Chairman Richeson moved to swap the order of Items 6a and 6b on the agenda for consistency purposes when discussed. Mr. Craig Merrill seconded the motion.

**Vote YEAS- unanimous**

**3.) Approval of Minutes:**

**MOTION**

Hearing no objections/additions/changes to the minutes of the May 16, 2024, Planning Board meeting, Matt Spencer motioned to approve the Minutes as submitted. Chairman Richeson seconded the motion.

**Vote: YEAS – unanimous**

**4.) Administrative Report:**

Mr. Testerman stated that at the June 3<sup>rd</sup> Town Council Meeting, the board voted to approve the Beach Food Pantry site plan modification and rescheduled a couple of public hearings for text amendments regarding Accessory Dwelling Units. The Public Hearings will now be held on Monday, July 1<sup>st</sup>.

**5.) Public Comment:**

Chairman Richeson stated that this portion is dedicated to those in the audience who want to speak to the Board about any issues. Those speaking should come to the podium and state their name for the record. He also noted that the Board is an 'advisory' board to the Town Council, and the Council can approve or deny what the Board puts forward. Seeing as no one approached the Board, Mr. Richeson closed this portion of the meeting.

**6.) Text Amendment**

- a.) 42-1(b).- Definitions; 42-225, 42-247 thru 249; 42-273 thru 275 Lot coverage and Permeable paving materials (Agenda Item 6b)

Mr. Testerman- This proposed text amendment deals with lot coverage and permeable pavement. The first two pages are revised and on your desk. A couple of items were cleaned up after the packets went out (Agenda Item 6b). In the staff report, I reviewed the other towns to determine what they consider permeable and impermeable and what they consider lot coverage. I will then turn it over to the board for questions.

**Discussion:**

- Mr. Spencer: I have a question. I am really struggling to understand why there are two definitions: one for lot coverage and one for physical lot coverage area. I'm just not getting it.
- Mr. Testerman: So, the definition for lot coverage physical area came in that text amendment in 2018 that was applied for by a citizen. Following the other definition for permeable pavement, they are saying the lot coverage is your structures, your concrete, the things that are impervious materials, and always going to be lot coverage. Then the lot coverage physical area is if you wanted to go beyond, if it gets approved, and you want to go beyond the 30% and use the additional square footage of the permeable pavement material that is where you are kept at the physical area of 38%. So, essentially, if you are using this permeable concrete, you do not have free range to go out and cover your entire lot. You're still going to be kept at that 38% as a combination of traditional lot coverage like concrete and structures plus the permeable pavement material.

- Mr. Geraghty: Basically, you are saying that you can go to 38% and that 8% must be permeable pavement.
- Mr. Testerman: Right, correct.
- Chairman Richeson: Other items such as river rock, granite, and driveways are no longer counted if they are permeable.
- Mr. Testerman: We are going to have it highlighted in there as gravel, loose stone used for walkways, patios, or landscaping does not count as lot coverage. That is another thing that is not necessarily covered one way or the other right now. I believe gravel falls under the permeable pavement definition, where you can still have that 8% leeway. If using it for a driveway or parking area because if you are using gravel for that, the thought is for that is that it will start to get compacted.
- Mr. Geraghty: The driveway is still counted if it is gravel, but you can get the 8% extra
- Mr. Testerman: Right
- Chairman Richeson: Plus, this gives the town an ordinance requiring permeable pavement that gets stopped up to get replaced.
- Mr. Testerman: One of the reasons this is being brought forward also is almost any time that any new construction is happening, there is more than likely filling of a lot to some degree, and neighbors see the amount of concrete and roof surface, and our phones start ringing saying they are going to flood my lot out. Usually, tell them just to be patient and see when it is done. It's not really going to flood you too much. Some of the intensity of the rain events we have been having over the past few years this kind of incentivizes homeowners and builders to put in these materials that are going to keep some of that rainwater on their lot instead of just standard concrete that is possibly going to push it off into the right of ways or on to a neighbor's lot. It kind of encourages them to keep it on their own lot.
- Mr. Spencer: I just want to make sure I understand that there is an absolute cap at 38% if you can demonstrate that anything over 30% is pervious.
- Mr. Testerman: Correct
- Mr. Spencer: I suppose you could have included that in the lot coverage definition if you wanted to, but so be it. I think I understand.
- Mr. Testerman: Except for those items that are highlighted as being excluded from lot coverage calculations, like the 500 sq ft of the pool surface area and the proposed materials I have in here, like artificial turf, as long as it's certified by an engineer that the instillation and material are going to remain permeable for the life of the instillation. That would not have to adhere to the 38%, but the typical lot coverage and permeable pavement materials would be capped at 38%.
- Mr. Spencer: Do you think maybe under the definition of lot coverage physical area, where you are striking a portion of that sentence that says, "striking coverage

without reduction for the built-upon area,” but it also still includes impervious areas? Do you think maybe the amendments that you are making to the lot coverage definition, you might not want to strike that portion of that sentence? Can you tell me why we need to strike that? On lot coverage physical area.

- Mr. Testerman: That first line that is being proposed to be struck through?
- Mr. Spencer: Yes, striking coverage without reduction for built upon area credits.
- Mr. Testerman: Right, so the amendment that came through in 2018, as I was getting this prepared, I went back and forth with the applicant from that 2018 text amendment just to make sure I was not missing anything. That line talks about reduction for build-upon area credits, and there is another line in there that is proposed to be struck through that says permeable pavement shall not be less than 100% pervious or build-upon area credit (lot coverage credit as established in section C5 Permeable Pavement of NCDEQ Stormwater Design Manual) That was the only portion where it was mentioned in that section of the stormwater manual was talking about 100% lot coverage credit and that really was not what they were trying to achieve by getting that. In the commercial case, they got approved for 72%. They were trying to say they were giving 100% credit for it. We were still counting it as a portion of lot coverage, so to me, referencing it in the definition and then not applying it in use causes confusion.
- Mr. Spencer: Well, I guess the one thing I think if you are going to strike that under the page 1 lot coverage physical area, you probably want to keep the word coverage, don't you? Maybe I need to show you what I am looking at.
- Mr. Testerman: No, I think you're right.
- Mr. Merrill: Or maybe the word lot just needs to be changed to surface. Including impervious areas and permeable surfaces or something like that?
- Mr. Richeson: Does anyone else have any other questions? If we make a motion on that, should we include what Matt just said?
- Mr. Spencer: Permeable surfaces sounds good to me.
- Mr. Varnell: You want to make a motion, Matt?

## **MOTION**

Mr. Spencer made a motion to recommend approval with the additional wording under Lot Coverage Physical Area, stating the following: Lot coverage physical area means the total area of all areas physically covered by buildings, parking areas, accessory structures, driveways, roads, or sidewalks, and any area of concrete or asphalt, including impervious areas and permeable surfaces.

Chairman Richeson seconded the motion. Any discussion on the motion? None

**Vote: YEAS – unanimous**

Chairman Richeson: This brings us to 6b Text Amendment 42-414(b) Special Uses, Rob.

b.) 42-414(b) – Mini-warehouse in PCD. The applicant proposes to amend the maximum building size of a mini-warehouse in a PCD to a 40,000 sq ft footprint. (Agenda Item 6a)

Mr. Testerman: So, this text amendment comes in as a modification to some language that was just approved in the planned commercial development related to mini-warehouses as a special use permit. Currently, in the planned commercial development, there are additional standards that are set forth in that ordinance, but the underlying zoning district applies for things like lot coverage and setbacks and, in this case, building size. In the BC-2 district, this particular proposal is the underlying zoning district caps any single tenant or use at 40,000 sq ft for commercial use. (Agenda Item 6a) The applicants are on hand, not sure if they want to say anything or just be here to answer any questions.

**Discussion:**

- Mr. Goodrich: My name is Eddie Goodrich, and this is Gordon Kolb. He was a little apprehensive because he doesn't consider himself a local boy. The fact is he does have roots here in Eastern NC. In fact, he's from Edenton, and his father-in-law is an attorney in Edenton, NC. He actually used to work at the Western Sizzlin' when he was in college. He developed Publix, which is in Kill Devil Hills, a first-class goods store, as well as Whole Grains in Elizabeth City, and I gave him a less glamorous company they have been in business for 50 years.
- Mr. Kolb: Good evening, members of the planning board and staff; my name is Gordon Kolb, Jr., and I am the owner of GHC Buildings out of New Orleans. As Eddie mentioned, I love Eastern NC; I know I am from New Orleans, but I married in Edenton. My wife and I vacation here two weeks out of the summer with her family every year. Our last project was Publix down the street. I am thrilled to be working again on another project, hopefully here in your community. Self-storage has very little physical impact on its development, but it also generates a large tax incentive for the community it's in. If we receive approval tonight, my partners and I will look at an estimated total project budget, just the storage piece, not for the conceptual retail upfront of a project budget of around 17 million dollars. And we are excited to make that investment in Kitty Hawk. From our experience, a project of this size will create around 150 or more construction jobs for the area. It usually takes about a year to build these. The requested flexibility in the footprint that we are asking for allows us to help generate and achieve the rents that we need to fill a budget of this size. I am here to answer any questions, but again, I appreciate you all having me tonight, and I look forward to becoming part of your community.

- Chairman Richeson: Does anyone have any questions for the applicant or Rob? No questions. Does anyone care to make a motion?

## **MOTION**

Mr. Geraghty made a motion to recommend approval of the proposed text amendment regarding the building size of mini-warehouses within the PCD overlay district, as described by staff. The Board has found this proposal to be consistent with the Town's adopted land use plan.

Mr. Richeson seconded the motion. Any discussion?

## **Discussion:**

- Mr. Spencer: So, the possibility of 120,000 sq ft is going to be limited to mini-warehouses. No other building will be allowed?
- Mr. Testerman: The way it is being proposed is in those conditions of approval for a mini-warehouse in a planned commercial district. As you can see on the map that was included in the staff report, there were three existing PCDs. The one that this proposal focuses on is behind the new 7-Eleven at Woods Road. There is also one over at the Home Depot at the property behind that is associated with Beach Woods and then further west as you come off the bridge at the promenade area. That is not to say that they are the only PCDs that will exist. If someone can meet the 5 acres and 500 ft of road frontage and either the BC-1, BC-2, BC-3, or BH-1, they could apply for another Planned Commercial Development, but as of right now, that is what we have.
- Chairman Richeson: As of right now, this is restricted to mini-warehouses. Someone can't go build a 3-story hotel that is 120,000 sq ft.
- Mr. Testerman: Right
- Chairman Richeson: Okay, I just want to make sure I have that clear. Are there any further questions or discussions? Are we good to vote now?

**Vote: YEAS – unanimous**

## **7.) Planned Commercial Development:**

- a.) 6100 N Croatan Hwy/The Woods Road PCD – Conceptual site plan modification. Applicant proposes to modify the previously approved conceptual site plan from multi-family dwellings to a mini-warehouse and other commercial development. (Agenda Item 7a)

Mr. Testerman: I guess I should have mentioned at the start it is kind of a 3-part thing on the agenda tonight. We have the text amendment, and this is part of a previously approved Planned Commercial Development that had a conceptual plan approval that would need to be modified. The next agenda item is the Special Use Permit site plan review. (Agenda Item 7a)

Chairman Richeson: Does anyone have any questions for Rob or the applicant regarding this plan modification?

**Discussion:**

- Mr. Merrill: So, if the town council approves setting aside the retail and approving the self-storage, we have abandoned the multi-family housing just by virtue of that. That's dead then?
- Mr. Testerman: At this point, if you approve the conceptual plan modification, then that's what we would be working under. So, the previous conceptual plan that showed the 62 units, yeah, they are not nailed down to that.
- Mr. Merrill: So, there is no value in having those units instead of that retail space there, leaving that available for multi-family.
- Mr. Testerman: I guess that is up to the applicant if that is something they desire. As the last line stated, if the planning board wants to make any recommendations or changes to the conceptual plan, you can do so. If the applicant disagrees with that, then they can take that to the Council. Take the recommendation and their disagreement with the recommendation to the Council.
- Mr. Merrill: Because that original multi-family that was affordable housing, right?
- Chairman Richeson: No, just multi-family
- Mr. Spencer: And the height was what? I don't know if you were here for that one. I think they wanted to go up with it.
- Chairman Richeson: An extra floor
- Mr. Spencer: And we didn't recommend it, and Council did not want to do it either.
- Mr. Merrill: They wanted to exceed 35'
- Mr. Goodrich: May I address Mr. Merrill
- Chairman Richeson: You may
- Mr. Goodrich: I tried. I introduced the property to the County of Dare for affordable housing. Roy Cooper went under contract, and he also went under contract on a parcel of mine behind Starbucks and Walgreens in Kill Devil Hills. I think you know the rest of the story. So, we are building 20 houses, two-bedroom and two-bath, heat-restricted year-round, commercial term units. So, all I can say is I tried the best I could.
- Mr. Merrill: Thank you.
- Chairman Richeson: Any other questions? Does anyone care to make a motion on this change?

**MOTION**

Mr. Geraghty made a motion to recommend approval of the proposed conceptual site plan modification.

Chairman Richeson seconded the motion.

**Discussion:**

- Chairman Richeson: Any further discussion? Matt, I saw you reading intensely.
- Mr. Merrill: I think I had hoped that we would have multi-family housing there, but I guess that didn't work. That's just why you see me up here looking like this. I think that ship has sailed, it would seem to me. I don't need any further discussion, thank you, John, I'm good
- Chairman Richeson: I just wanted to be sure. Any further discussions? If none, let's vote.

**Vote: YEAS – unanimous**

**8.) Special Use Permit/Site Plan:**

a.) 6100 N Croatan Hwy/The Woods Road PCD – applicant is requesting a special use permit and site plan approval for a mini-warehouse facility as well as a second commercial structure. (Agenda Item 8a)

Mr. Testerman: For fire hydrants, the fire department did get some comments back to me. They said that the location of new fire hydrants would need to be specified in the site plan. Dept. Fire Chief Rogers was concerned that there may be some additional asphalt needed to provide some additional turnaround for their fire apparatus. I did not get the specifics from them, but I will be in conversation with them in the coming weeks prior to this going to the public hearing at the town council level; his comments will be relayed, passed on to the applicant, and incorporated into the site plan prior to going to the public hearing.

Chairman Richeson: Any questions for Mr. Testerman or the applicant?

**Discussion:**

- Mr. Spencer: Rob, regarding the fire department feedback, if we were to recommend approval, would we need to say it's subject to the fire department's input because it is a wooded area, and the fire department needs to go to the back corner of that property or wherever they need to get?
- Mr. Testerman: Right, it can't hurt to have it as a conditional approval that the fire department conditions be met.
- Mr. Geraghty: That's part of the building permit process.
- Mr. Testerman: Yes, it will not proceed without the blessing of the fire department.
- Chairman Richeson: Regarding the height, that is just a parapet, right?
- Mr. Testerman: Yes, and I think it shows.
- Chairman Richeson: It is a foot over on the height part.
- Mr. Kolb: The roof line is 34 feet, and the parapet, which is the top corner of the tower, is 36 feet, so the roof line will be greater than 34 feet.
- Mr. Merrill: And that is just an aesthetic feature?



- Chairman Richeson: An architectural-faced thing, right?
- Mr. Kolb: Yes, sir, it is. We will have our HVAC up there as well, and it will give some screening to that.
- Mr. Testerman: The ordinance contains some language that says architectural features housing mechanical units can extend 4 feet above the maximum height.
- Mr. Geraghty: I think when the hotel was built, they did something like that.
- Mr. Testerman: It's written in there that those types of things can extend 4ft above the maximum height of 35ft.
- Chairman Richeson: And they are not structural things. Someone can't go back and build a platform on it, stuff like that.
- Mr. Merrill: So, someone who has not been smart in not coming this way on Saturdays and Sundays, we already have a traffic challenge where people in the right lane don't realize that only goes to 7-Eleven and they back up going to 7-Eleven and drive through the 7-Eleven parking lot to get onto the Wood Road or sometimes they intentionally do that to get around the Southern Shores Blockade. Isn't this going to make it worse without Signage directing people coming into town from the West? It just seems like it is going to add to a problem that already exists unless there is some signage included with this. Right now, all we have out there is a temporary sign that goes out there and doesn't make any sense to anyone who doesn't live here. It says if you are going to Southern Shores, you should get in the left lane. That clearly doesn't work. I just don't see how this doesn't contribute to a current problem.
- Mr. Kolb: From a storage standpoint, if I can answer that, we have done some national traffic studies for this type of facility and have built about 20 throughout the country. On average, there are about six cars per hour maximum for a facility of that size, so it is very low impact.
- Mr. Merrill: No, no, I understand that. I am talking about the unintended traffic. The people that get in that right lane and now they are turning to an area, plus they are going to have retail here, not just the storage. That is more of my concern. People do not intend to go that way or try to get around and cause more of a cluster than it already is.
- Mr. Kolb: We would be happy to look at any signage suggestions for sure.
- Mr. Testerman: That area is the DOT's right of way, so we can make recommendations, but it would ultimately be the DOT's decision whether to require or allow any signage we put in.
- Chairman Richeson: Anything commercially you put along there is going to have that problem.
- Mr. Varnell: You can make it a recommendation, just not a requirement.
- Chairman Richeson: Are there any further discussions or questions? None, so does anyone care to make a motion?

**MOTION**

Mr. Spencer made a motion to recommend approval of the site plan and special use permit for a mini-warehouse facility located at the PCD at 6100 N Croatan Hwy, subject to the conditions listed in the ordinance and subject to the fire department having appropriate access and requesting a “no through traffic” sign for people that don’t intend to go to this facility that they should not turn.

Mr. Geraghty seconded the motion.

Mr. Richeson: Any further discussion? Mr. Merrill, does that satisfy your concern?

Mr. Merrill: Yes, sir

**Vote: YEAS – unanimous**

**9.) Comments:**

a. Chairman Richeson – Thank you all for your input. A lot of good points were brought up tonight.

b. Planning Board Members - none

c. Town Attorney - none

d. Planning Director- none

**10.) Adjourn:**

Hearing no further comments, Mr. Richeson adjourned the June 27, 2024, Kitty Hawk Planning Board meeting at 7:00 p.m.

Respectfully Submitted,



Jessica M. Everett

Administrative Zoning Technician