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**Kitty Hawk Planning Board Meeting
August 15, 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 June 27, 2024 meeting
4. Administrative Report:
 - a. Town Council Action - 7/1, 8/5 meetings
5. Public Comment
6. Subdivision
 - a. 800 W. Kitty Hawk Rd – proposed 2 lot subdivision from 2.41 acre parent parcel
7. Text Amendment
 - a. 42-360.- Sound waters district. Proposal to reclassify piers as permitted use, and amend maximum pier length
8. New Business
 - a. Keeping roosters in Kitty Hawk. The Planning Board is asked to make a recommendation to Council on whether staff should draft a proposed ordinance regulating the keeping of rooster.
9. Comments:
 - a. Chairman Richeson
 - b. Planning Board Members
 - c. Town Attorney
 - d. Planning Director
10. Adjourn

DRAFT

**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/ 6:00 p.m.
Attendance:**

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 3rd 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 1st.

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

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MEMORANDUM

TO: Chairman Richeson and Members of the Planning Board
FROM: Rob Testerman, AICP, Planning Director
DATE: August 15, 2024
RE: Preliminary Plat/Final Plat: Beacham Heirs Subdivision (2 Lots)

Note: Subdivision reviews are an administrative decision. If all requirements are met, the applicant is entitled to approval.

Proposal

The applicant has submitted an application and preliminary plat for the subdivision of the parcel at 800 W Kitty Hawk Road. The plat outlines a proposal to subdivide one existing parcel totaling 2.41 acres on the north side of W Kitty Hawk Rd into two lots. No new road, or road expansions are proposed as part of this subdivision. The two lots would be 36,112.22 sq ft or 0.83 acre total area (29,211.5 sq. ft. contiguous uplands), and 68,659.49 sq ft or 1.58 acres total area (68,210.55 sq. ft. contiguous uplands).

Because the parent parcel is larger than two acres, this subdivision does not meet the requirements to be considered an "exempt subdivision". The Town currently does not have a process in place to allow staff to approve/deny minor subdivisions such as this, therefore it must go to the Planning Board and Council for approval.

Because there are no improvements proposed, or recommended conditions of approval, the plat is being presented as both the preliminary and final plat. Should there be any conditions of approval which would require a revised plat, the Board can make a separate preliminary plat approval, and require a revised final plat to be submitted at a later date.

Staff Analysis

Zoning: The subject property currently has two single family dwellings and associated accessory structures, and is zoned VC-1, village commercial district. The VC-1 district allows single family residences as a permitted use, by-right.

Lot Size: The minimum lot size in the VC-1 district is 15,000 square feet of contiguous uplands. As noted above, both proposed lots exceed the minimum lot size.

Density: Maximum permitted density is two single-family dwellings per acre. This proposal equals 0.82 dwellings per acre.

Lot Width: The minimum lot width in the VR-1 district is seventy-five feet (75'), measured at

the front building setback line on each parcel. As shown on the plat, each proposed lot meets this requirement.

Road Frontage: Lots must have a minimum road frontage fifty feet. It appears that all three lots will comply with this standard.

Building Setbacks: Minimum building setbacks in the VR-1 district are 10 feet along the sides and 25 feet at the front and rear. The minimum building setbacks not shown on the plat, however, all existing structures currently on site meet minimum setback requirements.

Road Rights-of-Way: There are no new roads proposed as part of this subdivision.

Planning Board Action

The Planning Board has been asked to review the proposed preliminary plat and provide a recommendation to Town Council. Should the Planning Board decide to recommend approval of the preliminary/final plat for the subdivision, the motion could be worded in the following manner:

“I move to recommend approval of the preliminary/final plat for the property at 800 W Kitty Hawk Rd.”

Should the Board wish to deny the preliminary/final plat, the following motion could be used:

“I move to recommend denial of the preliminary/final plat for 800 W Kitty Hawk Rd”

Note: Per Sec. 38-50, should the planning board recommend disapproval or conditional approval of the preliminary plat, the reasons for such action shall be noted in the minutes of the board **and reference shall be made to the specific sections of Chapter 38 of town code which the preliminary plat does not comply**, and the subdivider shall be so notified.

Directions to the Subject Property

(from Kitty Hawk Post Office, N. Croatan Highway & Kitty Hawk Road)
Drive west on W. Kitty Hawk Road for 0.8 miles
Subject parcel is 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: August 15, 2024
RE: Text Amendment: 42-360.- Sound waters district

Proposal

Text in red is proposed.

42-360.- Sound Waters district

(b) *Permitted uses.* The following uses shall be permitted by right:

(3) Private, community or commercial piers and boat slips, subject to continuing compliance with the following requirements:

- a. That all appropriate governmental and regulatory agency permits have been issued for the facility and use;
- b. The land activities of the marine use must be an authorized use within the zoning district where the land activities associated with the marine use will be conducted;
- c. A site plan of the land and water areas to be utilized for the use or uses depicting the location of all proposed and existing improvements must be reviewed and approved by the town. The site plan must conform with the general site plan standards of this chapter together with the additional standards of this section.
- d. The maximum length of all marine improvements, including the pier or docking facility in its entirety, shall be measured from the furthest waterward point of the normal high water mark of the bay or sound adjoining the property. The marine improvements can be placed in any location within the property and extend out to the established distance.

Type of Pier/Docking Facility	Maximum Length
Private residential pier/docking facility	400 feet
Community pier/docking facility	400 feet
Commercial pier/docking facility	400 feet

It is the intent of this subsection to encourage all marine improvements to be located in areas that minimize their impact on the coastal marshes.

e. Light fixtures and lighting. Private and community piers, and commercial piers on Kitty Hawk Bay as well as boat slips used with the piers shall have and maintain lights or reflectors to warn watercraft operators of the length and location of the pier and boat slips. A minimum length of 15 feet shall be maintained between lights or reflectors along the sides of the pier and not more than two lights shall be located at either end of the pier.

Except as provided in this subsection, lights shall not be attached to or on the pier or boat slips.

f. Devices used to create noise or amplified sound shall not be attached to or used on the pier.

g. Group social or party activities shall be prohibited on the pier between the hours of 8:00 p.m. in the evening through and including 8:00 a.m.

h. Covered boat slips are prohibited.

i. Community piers shall be used by the property owners in the multifamily project or subdivision, their guests, or vacation tenants during the rental period of their lease, and community and private piers shall not be open to the general public.

j. No transit boats shall be left at a community pier for more than 48 consecutive hours.

k. A boat dock locker may be located at each boat slip, provided the locker does not exceed two feet in height measured from the pier deck.

l. No fuel dispensing facility shall be located on a pier.

m. Hunting and igniting fireworks shall be prohibited from the pier.

n. The owner of the pier shall place into effect and maintain casualty insurance in an amount equal to 80 percent of the replacement cost of the pier with evidence thereof furnished to the town upon request.

o. The pier and boat slips must be maintained in a good and safe condition at all times.

p. Damage from storms or other casualties must be repaired within six months of the occurrence of the damage. Abandoned piers or piers damaged to the extent of 50 percent or more of its fair market value and which have been unrepaired for a period of nine consecutive months, may be removed by the town and the cost of removal charged to and assessed against the property owners or their association.

q. There shall be only one pier per parcel or lot.

(c) Special uses.

~~(2) Private, community or commercial piers and boat slips, subject to continuing compliance with the following requirements:~~

~~a. That all appropriate governmental and regulatory agency permits have been issued for the facility and use;~~

~~b. The land activities of the marine use must be an authorized use within the zoning district where the land activities associated with the marine use will be conducted;~~

~~e. A site plan of the land and water areas to be utilized for the use or uses depicting the location of all proposed and existing improvements must be reviewed and approved by the town. The site plan must conform with the general site plan standards of this chapter together with the additional standards of this section.~~

~~d. The maximum length of all marine improvements, including the pier or docking facility in its entirety, shall be measured from the furthest waterward point of the normal high water mark of the bay or sound adjoining the property. The marine improvements can be placed in any location within the property and extend out to the established distance.~~

Type of Pier/Docking Facility	Maximum Length
Private residential pier/docking facility	100 feet
Community pier/docking facility	200 feet
Commercial pier/docking facility	200 feet

~~It is the intent of this subsection to encourage all marine improvements to be located in areas that minimize their impact on the coastal marshes.~~

~~e. Light fixtures and lighting. Private and community piers, and commercial piers on Kitty Hawk Bay as well as boat slips used with the piers shall have and maintain lights or reflectors to warn watercraft operators of the length and location of the pier and boat slips. A minimum length of 15 feet shall be maintained between lights or reflectors along the sides of the pier and not more than two lights shall be located at either end of the pier. Except as provided in this subsection, lights shall not be attached to or on the pier or boat slips.~~

~~f. Devices used to create noise or amplified sound shall not be attached to or used on the pier.~~

~~g. Group social or party activities shall be prohibited on the pier between the hours of 8:00 p.m. in the evening through and including 8:00 a.m.~~

~~h. Covered boat slips are prohibited.~~

~~i. Community piers shall be used by the property owners in the multifamily project or subdivision, their guests, or vacation tenants during the rental period of their lease, and community and private piers shall not be open to the general public.~~

~~j. No transit boats shall be left at a community pier for more than 48 consecutive hours.~~

~~k. A boat dock locker may be located at each boat slip, provided the locker does not exceed two feet in height measured from the pier deck.~~

~~l. No fuel dispensing facility shall be located on a pier.~~

~~m. Hunting and igniting fireworks shall be prohibited from the pier.~~

~~n. The owner of the pier shall place into effect and maintain casualty insurance in an amount equal to 80 percent of the replacement cost of the pier with evidence thereof furnished to the town upon request.~~

~~o. The pier and boat slips must be maintained in a good and safe condition at all times.~~

~~p. Damage from storms or other casualties must be repaired within six months of the occurrence of the damage. Abandoned piers or piers damaged to the extent of 50 percent or more of its fair market value and which have been unrepaired for a period of nine consecutive months, may be removed by the town and the cost of removal charged to and assessed against the property owners or their association.~~

~~q. There shall be only one pier per parcel or lot.~~

Background & Analysis

The proposed amendments to 42-360 would have two components. First, it reclassifies piers and docking facilities from a special use to a permitted use. A special use permit requires an evidentiary based hearing, and is a quasi-judicial decision to be made by Town Council. In practice, staff is unaware of any piers that have gone through the process of a special use permit hearing. As such, staff recommends making this a permitted use, with the same conditions of approval to be applied. Similar to a single-family residence is a permitted use in residential districts, but it is conditioned on the site plan meeting setback, lot coverage and height requirements. This reclassification would make this an administrative decision, where as long as the conditions above are met, the owner is entitled to approval.

The part of the proposal changes the maximum pier/docking facility length. In recent months, the Board of Adjustment has approved one variance for a 300' pier, had a second application for a

pier exceeding 100', and staff has had discussions with at least 3 other property owners who are considering such an application. The reason being, it appears that in many cases on our sound front properties, a 100' long pier does not get you into deep enough water to launch a boat.

The proposed length of 400' was selected based on CAMA regulations. For private piers and community piers CAMA can issue a general permit for piers up to 400' in length. However, to receive a general permit for a pier longer than 200' the applicant must demonstrate that for every additional 100' in length, 1' of water depth is gained. CAMA does allow piers longer than 400' if a Major permit is obtained. Commercial piers also require a Major permit, regardless of length.

As proposed, should a property owner require a pier longer than 400' they would have to go through the variance application procedure.

All other requirements for piers/docking facilities are proposed to remain as they are currently written.

The goals and policies listed in the CAMA Land Use Plan are silent on this matter.

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 Sec. 42-360. 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 to Sec 42-360 . 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: August 15, 2024
RE: Keeping Roosters in Kitty Hawk

Recently, the Town has received a handful of complaints about the keeping of roosters within town limits. Before drafting any language to regulate the keeping of roosters, Town Council directed the Planning Board to have the discussion and develop a recommendation. In order to gather public input, Town Hall staff developed an online survey. The survey received 119 responses. Survey results are below:

Q1. Do you currently reside in the Town of Kitty Hawk? 118 respondents answered, 1 skipped. Of those respondents, 102 (86.44%) responded yes; 16 (13.56%) responded no.

Q2. Are you aware of current regulations regarding keeping roosters in the Town of Kitty Hawk? 44 responded yes (37.29%); 74 responded no (62.71%) - Planning Board note: We do not have specific language regarding keeping roosters; it is policed via the noise ordinance.

Q3. Do you believe roosters should be allowed in the Town of Kitty Hawk? 77 responded yes (64.71%); 17 responded no (14.29%); 25 responded 'depends on conditions' (21.01%)

Q4. What factors should be considered for allowing roosters in Town? Select all that apply.
38 responded 'noise levels' (32.48%)
55 responded 'number of roosters per household' (47.01%)
42 responded 'proximity to neighbors' (35.9%)
80 responded 'rooster welfare' (68.38%)
20 responded 'other' (17.09%)

Q5. If you selected 'Other' in the previous question, please specify which factors should be considered. Responses attached

Q6. Would you support regulations that allow roosters with specific conditions (e.g., noise control, distance from neighbors)? 50 responded yes (42.37%); 39 responded no (33.05%); 29 responded 'Need more information' (24.58%)

Q7. Please share any additional comments or concerns you have regarding keeping roosters in the Town of Kitty Hawk. Responses attached.

After having reviewed the survey responses, the Planning Board should discuss a) whether the town should regulate the keeping of roosters, and if so, b) what kind of regulations should be included (number of roosters, amount of land dedicated to the animals, separation from neighboring houses, etc)

Planning Board Action

The Planning Board is asked to provide the Town Council with a recommendation regarding whether or not to develop draft language regulating the keeping of roosters in town.

Should the Board decide to recommend that an ordinance be developed, the following motion could be used:

“I recommend that staff is directed to draft language to regulate the keeping of roosters in town.”

Should the Board wish to recommend **no ordinance be developed, the following motion could be used:**

“I recommend that staff is directed not to draft language regulating the keeping of roosters in town.”

Q5. Responses

No factors free county
5/15/2024 06:07 PM

No factors should be considered. You should be able to have roosters. This is still a free country.
5/14/2024 11:04 AM

Nothing. It's ridiculous to limit this.
5/12/2024 09:55 AM

This is categorized as a rural area...
5/11/2024 01:19 PM

NONE
5/11/2024 01:16 PM

If someone wants a rooster they should be able to have the rooster
5/11/2024 01:15 PM

you can't regulate pets on peoples properties
5/11/2024 11:47 AM

They should be kept in some type of enclosure or fencing. They should not be allowed to roam and be next to/in roadways.
5/11/2024 11:24 AM

None, let the residents have what they want. Quite regulating everything! If the
5/11/2024 10:02 AM

Lower taxes, lower food prices, then people won't have to raise their own food
5/11/2024 08:44 AM

No factors
5/11/2024 06:57 AM

If roosters are aggressive they should be in enclosed fences
5/10/2024 10:39 PM

Part of town. Village vs east of 158
5/10/2024 10:06 PM

Containment (is fenced area)
5/10/2024 09:59 PM

The town of Kitty Hawk according to their own website has "made a conscious effort to preserve the rural village lifestyle". Please don't stop now!! That being said, most backyard chicken coops

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only need one rooster to protect the flock. Numerous roosters per resident shouldn't be necessary.

5/10/2024 09:32 PM

There should not be an ordinance

5/10/2024 09:27 PM

There are not currently any regulations in Kitty Hawk for having roosters and I don't believe there should be. Kitty Hawk should not be the same as surrounding communities. This town is different and has history of families which include fishermen, horse lovers, and animals in general. This is one reason I chose to live here for over 20 years.

5/10/2024 09:10 PM

ALLOW NONE

5/10/2024 08:17 PM

Acres of land?

5/10/2024 08:10 PM

Keep Kitty Hawk County!!! North Carolina Department of Agriculture and Consumer Services sponsors the North Carolina Poultry Resource and Education Program (NC PREP) for small flock/backyard poultry owners. And they can not grow/ keep flocks with out roosters and with coyote problems keeping chickens in Kitty Hawk is hard enough!

5/10/2024 08:04 PM

Roosters are typically on the hour and not all day. Quiet by dusk.

5/10/2024 07:15 PM

Q7. Responses

Keep Kitty Hawk Country. The recent complaints stem from a rise in AirB&B's. Perhaps consider more regulations on those profiting from private rentals and not those surviving on their own land.

6/3/2024 07:00 AM

I live in proximity to the roosters that are being discussed. They don't bother me much. I think of them as robins, Carolina wrens and other nature birds. Keep Kitty Hawk Country

5/29/2024 02:29 PM

This is completely ridiculous. I see no harm oh having chickens and roosters. There are SO beneficial to any community. They help keep down big control. They can be used as a source of income. They can feed families and believe it or not they can also be considered as pets. There are cats and other animals that roam the neighborhoods and dedicate in other yards. Maybe people should not be allowed to have male cats. Have you ever heard a male cat when the female is in heat? They howl all night long calling out to the female. The noise from roosters is totally natural. If you don't want to hear the noise then I suggest getting ear plugs. If there were church bells that went off every hour day and night would you be complaining about that noise? This whole thing is totally ridiculous. Let the roosters be

5/18/2024 10:33 PM

Don't let some a few rotten eggs mess up kitty hawk because bought a house next to some one that already had rosters! Come people there are plenty of things to do in town meetings how bout a pathway down kitty hawk rd instead of a little shoulder

5/15/2024 06:07 PM

Please do not put regulations where they are not needed. Kitty hawk is the last town which allows farm animals. Please consider that roosters protect hens from predators.

5/14/2024 11:04 AM

I love kitty Hawk because we can have roosters, goats, horses...etc. PLEASE DON'T CHANGE OUR TOWN!

5/13/2024 06:00 AM

Roosters are no different then the noise landscapers produce

5/12/2024 12:13 PM

Let people have them

5/12/2024 09:55 AM

I see no issue with having roosters in Kitty Hawk.

5/11/2024 10:39 PM

Our rooster protects our hands from predators on a regular basis. We've witnessed it and have always appreciated living in a town that allows chickens / other livestock.

5/11/2024 10:02 PM

KH is becoming a haven for so many growing families, with growing concerns for quality food security. I truly believe it is time for KH to become more advantageous & realize life is more than just money. The folks who continuously complain of 'noise pollution' are the same ones complaining of children riding their bikes in the streets. A little rooster hoot & hollering won't kill you, if anything; it'll bring you more daylight!!!

5/11/2024 07:34 PM

Roosters kept properly with a flock of chickens help with income and food source for people that need it. They also help with rodent population.

5/11/2024 01:41 PM

Leave the roosters alone

5/11/2024 01:16 PM

Let the people have a rooster. Stop making the outer banks a tourist attraction and let it be a true home for those who live here!!!

5/11/2024 01:15 PM

let's keep KH rural!

5/11/2024 11:47 AM

Dogs make tons of noise, a rooster isn't going to be any louder than them. As long as they are happy and taken care of then there shouldn't be an issue.

5/11/2024 10:28 AM

We are country if the noise bothers you move!!! Keep Kitty Hawk Country!

5/11/2024 10:02 AM

Noise travel far and wide too far for roosters

5/11/2024 09:55 AM

Roosters and other animals have been part of Kitty Hawk forever. Please don't create new regulations.

5/11/2024 07:43 AM

Kitty hawk has been zoned for farm animals. Animals make noise.

5/11/2024 07:10 AM

What do they hurt ? They're just another part of nature and a sweet sound to awake to !!

5/11/2024 06:50 AM

I believe that this whole thing could very easily spiral out of control if not handled correctly. I just don't want to see roosters untested and loose out in the streets and local businesses like has happend elsewhere.

5/11/2024 04:40 AM

I would only do #6 because it's the law. Doesn't mean I would be happy or like it

5/10/2024 11:44 PM

People are way too concerned about other people's life. We don't need any more "Karen's". There are enough seasonal ones.

5/10/2024 11:14 PM

How can you control the noise a rooster makes? Please allow roosters at least one per acre? Or something like that

5/10/2024 11:04 PM

Roosters should be allowed but owners should be held responsible for them, their upkeep, making sure they are taken care of properly and ensuring they are in enclosed property because at times some roosters can be aggressive.

5/10/2024 10:39 PM

Keep Kitty Hawk Country

5/10/2024 10:10 PM

1 per location to avoid excess noise/fighting. Not easy of 158--noise and flooding concerns.

5/10/2024 10:06 PM

Kitty hawk is country. Has been for decades. This is ridiculous in my opinion. Next they'll be petitions about the horses. It needs to stop here. Roosters are detrimental for safety of the flock. I could go on and on. Leave kitty hawk country!

5/10/2024 09:49 PM

Keep Kitty Hawk Country!!

5/10/2024 09:32 PM

There are not regulations and I don't want any.

5/10/2024 09:27 PM

This is a no brainer. Roosters not only add charm to our community with their crowing, but they play a vital role in our ecosystem - regulating insect populations and maintaining biodiversity- as well as rural character of Kitty Hawk and promote a healthier environment. Moreover, roosters are a symbol of rural life and can serve as a reminder of our agricultural heritage. I urge the Board to consider policies that support responsible rooster ownership while addressing any concerns regarding noise or nuisance. With proper regulations in place, I believe that sustaining the current rooster population can be a positive step towards fostering sustainable food and community within Kitty Hawk. Thank you for considering this important matter.

5/10/2024 09:11 PM

One rooster and in an enclosure so as not to be able to roam into a neighbors yard

5/10/2024 09:07 PM

Everyone should be allowed 1 rooster to their flock of hens ... people deserve clean eating whether its eggs or chickens..... roosters are no different than wild birds singing. I live on Roanoke Island the owl across the street from me whos each & every night all night. Its natural. Birds shouldn't be restricted from making noise & a rooster should be free to protect his flock . Crowing at sunrise or whenever there is a threat to him or his girls. That's like say police or rescue shouldn't use sirens.

5/10/2024 08:53 PM

The peacocks are way louder

5/10/2024 08:30 PM

Neighbor has a rooster and it's incredibly annoying

5/10/2024 08:20 PM

Lot size, neighbors consideration.

5/10/2024 08:10 PM

I think kitty hawk has bigger problems than worrying about roosters and pleasing the city people that moved to the county/village of kitty hawk which is known for fishing and farm animals they should have done research before moving here and trying to change what was here before them! Leave the locals who struggle to feed their family's as it alone if chicken help them than leave them alone

5/10/2024 08:04 PM

No to fighting roosters!

5/10/2024 07:34 PM

Keeping kitty hawk "rural."

5/10/2024 07:27 PM

My neighbor in Kitty Hawk has had 2 roosters at different times. They are loud at all hours of the day and night and do not belong in neighborhoods.

5/10/2024 07:16 PM

I don't believe it should be regulated. Kitty Hawk is not the same as other communities. It is more back country compared to beach locations. Roosters help control bugs, snakes, and other rodents. Roosters serve a purpose in their group and protect. Dogs, frogs, locusts are louder through the night at times. Unless a unique situation occurs such as a predator, Roosters are more quiet at night than neighbors.

5/10/2024 07:15 PM

Let people keep their roosters, if their pansy neighbors can't handle it that's their problem.

5/10/2024 07:03 PM