Kitty Hawk Planning Board

Meeting Minutes

December 17, 2015 – 6:00pm

Kitty Hawk Municipal Building

**AGENDA**

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes – November 12, 2015
4. Administrative Report:
5. Town Council Action from December 7, 2015 Meeting
6. Text Amendment:
7. Vehicle Rental in BC-2
8. Conditional Use Permit:
9. Vehicle Rental – Bugging Out, 500 Sand Dune Drive
10. Shared Parking – Wendy’s, 5430 N. Croatan Highway
11. Private Utility – Shoreside Shopping Center
12. Site Plan Review:
13. East Coast Game Rooms, 3928 N. Croatan Highway
14. Comments:
15. Chairman Richeson
16. Planning Board Members
17. Town Attorney
18. Planning Director
19. Public Comment
20. Adjourn
21. **CALL TO ORDER/ATTENDANCE:** Chairman Richeson called the meeting of the Kitty Hawk Planning Board to order at 6:00pm on Thursday, December 17, 2015.

**PLANNING BOARD MEMBERS PRESENT:** John Richeson, Chairman; Bryan Parker, Vice-Chairman; Dylan Tillett, Member; Jim Geraghty, Member; Chuck Heath, Member; Gary Muir, Alternate; Dusty Rhoads, Alternate.

**STAFF PRESENT:** Rob Testerman, Planning Director; Steve Michael, Town Attorney.

1. **AGENDA:** Hearing no changes to the Agenda as presented, Chairman Richeson declared the Agenda approved.
2. **APPROVAL OF MINUTES – November 12, 2015:** Chairman Richeson stated that Mr. Heath was present at the November 12, 2015 meeting, but that was not reflected in those meeting minutes and hearing no further changes to the Minutes as presented, Chairman Richeson declared the Minutes approved.

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1. **ADMINISTRATIVE REPORT – Town Council Action – December 7, 2015 Meeting.**

* Planner Testerman reported that during a public hearing, the Town Council approved the Conditional Use Permit for the Fitness Center and also scheduled a Public Hearing for the Medical Center which was formally ‘0 Byrd Street’ which has now been reassigned a N. Croatan Highway address.
* Mr. Testerman also stated that the Town Council scheduled Public Hearings for shared parking at Art’s Place and Art’s Firehouse Pizza and for the Conditional Zoning Text Amendment at their January, 2016 meeting.

1. **TEXT AMENDMENT: Vehicle Rental in BC-2.**

* The Applicant’s proposal would add the following wording as subsection 42-251(c)(34) of the Town Code:
* **42-251(c)(34)** – All vehicle rentals, subject to any reasonable conditions imposed by the Town Council and the following specific conditions:

1. No more than three (3) rental vehicles to be parked in the front of the building, the remainder of the fleet shall be parked in the rear or interior of the building.
2. Total number of rental vehicles shall not exceed fifteen (15).
3. Site must have sufficient interior storage for vehicle accessories.
4. Location must have counter area with restrooms.
5. No high occupancy vehicles included in the fleet.
6. Rental vehicle repair and/or maintenance shall not be permitted on site.
7. The following as added per the Staff: Vehicle rental business shall not be an ancillary use.

* Mr. Testerman stated that a similar proposal was presented to the Board for the BC-1 district for the car wash converting to jeep rentals. He also stated that ‘other than taking out any other subsections or adding subsection G, this is identical to the former that was approved for BC-1.’
* He also stated that the subsection that removed from this proposal stated ‘ that the business could not be located in a multi-tenant commercial property and would not work in the Applicant’s case because the location that he looked at is a multi-tenant commercial use.
* He also stated that before the BC-1 proposal came through, there was another Application for vehicle rentals that the Town Council had concerns regarding multi-use and having it be for ancillary use and/or in a multi-tenant commercial use and that is why the approval for BC-1 was redone to address those concerns.

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* He also stated that he doesn’t think that removing that requirement being the sole use of the property creates too much of an issue because it being a Conditional Use Permit, each one that would be presented to the Board would still have to be reviewed on a case-by-case basis and traffic flow issues could be addressed during each review. The Planning Board and Town Council would be able to review how the lot works with an Applicant’s particular operation and then decide if they think it would create any kind of conflict within the property.
* Also, the Applicant’s Conditional Use, they are at the end unit of the building and doesn’t think their operation would affect the other units on the lot.

**BACKGROUND INFORMATION**

Currently, vehicle rental operations are not a permitted use in the Beach Commercial (BC-2) zoning district but are permitted in the BC-1 district with an approved Conditional Use Permit. There are several local businesses that offer loaner or courtesy cars to customers having vehicles repaired and the Planning & Inspections Staff is aware of only one(1) business in Town that is renting vehicles at this time. Home Depot, located in a BC-3/PCD zoning district rents large equipment and vehicles to customers that are mostly related to construction projects and recently was granted a Conditional Use Permit after a Text Amendment was approved to allow truck rentals in the BC-3 district. The Town did approve a Conditional Use Permit for a Jeep rental business in the BC-1 district, but that project has not moved forward.

* Mr. Testerman indicated that most of the other neighboring localities do not have specific requirements regarding vehicle rentals other than Currituck County who have very detailed requirements.

**Consistency w/Land Use Plan**

The Town’s adopted CAMA Land Use Plan does not specifically or generally address the topic of vehicle rental businesses and as part of the Board’s recommendation, the Board is being asked to make a determination whether the proposed Text Amendment is or is not consistent with the adopted CAMA Land Use Plan.

* Also mentioned in the Staff Report there are currently three (3) pockets of the BC-2 district in Town and are referenced on the attached zoning map (provided by Planner Testerman to each Board Member.)
* The highlighted sections are BC-2 which are the only parts in Town that this Text Amendment would affect. Mr. Testerman also stated that the Applicant was not in attendance.
* Chairman Richeson then asked the Board if there were any concerns/questions.
* Mr. Tillett stated that he doesn’t have a problem with the rentals being in the BC-2 zoning district but stated that he does not like the inconsistency between the BC-1 and the BC-2 proposal and feels they all should be the same as far as the definition states.
* Chairman Richeson stated that he remembers someone coming in concerning the BC parcel on the northwest side of Woods Road who was considering having a car rental business and recalls that that was approved and ‘therefore, the Town has that type of a vehicle rental in the BC-2 district’ and asked Mr. Testerman to go back and review.
* Chairman Richeson, hearing no further questions/concerns from the Board asked for a Board Member to make a recommendation on: **Text Amendment: Amend the Kitty Hawk Town Code by adding Subsection 42-251(c)(34) allowing ‘vehicle rentals’ as a conditionally permitted use in the Beach Commercial (BC-2) zoning district, subject to certain conditions.**

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* Mr. Geraghty made the following recommendation: **“I recommend approval of the proposed Text Amendment allowing vehicle rentals as a conditionally permitted use in the Beach Commercial (BC-2) zoning district, subject to the conditions proposed by the Applicant with Staff suggestions incorporated. The Board has found this proposal to be consistent with the Town’s adopted Land Use Plan.**
* Chairman Richeson asked for a vote and hearing no “Nays”, the recommendation was approved unanimously.

1. **Conditional Use Permit:**
2. **Vehicle Rental, Buggin Out, 500 Sand Dune Drive**

* Mr. Testerman indicated that this Conditional Use Permit is in conjunction with the Text Amendment previously discussed.

**Proposal**

The Applicants are requesting approval of a Conditional Use Permit to locate a “Vintage Buggy” rental business in the building located at 500 Sand Dune Drive. The proposal states that there will be nine (9) vehicles in the fleet of buggies and the business will be based upon the peak vacation months of May through October.

The specific location will provide for approximately 2,050 square feet of secured storage space which will be used to house the buggies. The buggies are proposed to be kept indoors with the exception of one or two to be parked outside during business hours to promote the business.

The location provides the Applicant with approximately 1,950 square feet of office space with 1,500 square feet of those being located on the second floor.

**Background Information**The subject property is presently zoned Beach Commercial (BC-2) and is a multi-tenant commercial use. The property has approximately 180 feet of frontage on Sand Dune Drive and 175 feet of frontage on Worthington Lane and the total lot is 74,680.8 square feet (1.72 acres) in area.

Directly abutting the subject property to the east are four properties, all zoned BC-2 and include the former Pizzazz Pizza, a mixed use (commercial/residential) building and R.E. Michel. To the west of the subject property are two parcels that are part of the multi-family residential development: Sandpiper Cay, zoned BR-2 and across Worthington Lane to the north are single-family residences zoned BR-1. Across Sand Dune Drive to the south are additional units in the multi-family development, zoned Br-2. The proposed use is in the southern most unit of the commercial development directly across from Sandpiper Cay development.

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**Staff Analysis**

**Proposed Uses:** Vehicle Rental. Should the concurrently running Text Amendment application gain approval, vehicle rentals will be allowed via a Conditional Use within the Beach Commercial (BC-2) district.

**Lot Coverage:** There are no lot coverage changes proposed as part of this Application. The current lot coverage (including the proposed buildings, sidewalks, parking, access drives and drive aisles) is 42,514 square feet (57%). The proposal is compliant with the maximum lot coverage requirement of 60% for the BC-2 district.

**Building Height:** The maximum height in the BC-2 district is thirty-five feet (35’)The maximum height in the BC-2 district is thirty-five feet (35’) from the existing grade to the peak of the roof and no building height changes are proposed and the current building is compliant.

**Building Setbacks:** Per the table below, it appears that all of the buildings will comply with the Town’s current minimum building setbacks standards for the BC-2 district.

**Setback Existing Required**

Front 72 feet 15 feet

Rear 55 feet 20 feet

Sides 25 feet (north) 10 feet

50 feet (south) 10 feet

**Access:** The subject property currently has two (2) access points and currently contains one 22 foot wide ingress/egress drive off of Sand Dune Drive and a second 22 foot wide ingress/egress drive off of Worthington Lane. No changes are proposed for the access to the property.

**Proposed Parking Requirements:** As part of the last Text Amendment that was approved, the following was added that required one (1) parking space per 200 square feet of office space. This Application will require ten (10) parking spaces.

* The unit in question has seven (7) spaces located on the side of the building and an additional nine (9) spaces located directly in front of the unit.
* With a total of 72 parking spaces on site, ADA standards require a minimum of three (3) handicapped accessible parking spaces and currently onsite are two (2) ADA compliant spaces and because the Applicant would be moving into an already approved and built area, it may not trigger bringing in any additional compliance for the ADA spaces.

**Loading Zone:** There are two (2) loading zones shown on the original site plan; one is 12’x40’ and is located at the north end of the building and the other does not show a specific size and is located at the south end of the building.

**Buffers:** The Zoning Ordinance requires buffers between commercial zones and abutting residential zones. The original site plan approval was approved with a Type A & B buffer where the subject property abuts the BR-2 zone to the west (rear of the building) and Type C along the roadways of Sand Dune Drive and Worthington Lane and no additional buffers will be required.

**Waste Management:** The property is currently served by two build containers, one being located at the northern end and one at the southern end of the property with no proposed changes at this time.

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**Lighting:** There are no proposed changes at this time. Should there be any future changes to the current exterior lighting, a lighting plan must be submitted and approved administratively by the Planning & Inspections Department and must comply with the standards of Section 42-515 of the Zoning Ordinance.

**Signs:** All signs to go on site will need to be submitted to the Planning & Inspections Department and would be approved administratively.

**Flood Zone:** The subject property appears to be located entirely within an X flood zone.

**Land Use Plan:** The Town of Kitty Hawk’s adopted CAMA Land Use Plan designates the property as a “Commercial, Shopping and Working Area” on the future land use map.

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

POLICY 4a: Kitty Hawk, through its zoning ordinance will continue to direct the placement of commercial developments in areas zoned for such activities.

POLICY 4e: Kitty Hawk will review and analyze development and redevelopment proposals for consistency with the future land use map included in this land use plan.

* Mr. Testerman stated that as part of their review, the Planning Board is asked to determine if the proposed development is consistent with the policies and objectives outlined in the land use plan.

**Conditional Use Findings:** Per the standards of Section 42-99(b)(7) and in order to approve this application,

The Town Council must make findings that are proposed conditional uses:

1. Does not materially endanger the public health or safety,

* No site work is planned that could potentially endanger public health or safety; additionally, the proposed use will not endanger public health or safety. Also, one of the conditions would be that the Applicant consult with the Building Inspector and the Fire Marshall to make sure that the building is going to be compliant for all building and fire codes for this particular use. EXAMPE: There are 6x6 pilings in the interior of the building and because vehicles will be located in the interior of the building, will concrete pilings be need to be installed.
* As for the Fire Code, there is a possibility that a fire wall may need to be in place since the vehicles being stored in the building will have fuel in them. And, as long as the Applicant meets with the two Town officials to ensure that what is needed is completed according to the specific codes and would not materially endanger public health or safety.

1. Does meet all required conditions and specifications,

* If the proposed Text Amendment gains approval, then the proposed use will comply with all applicable standards of the Town Code.

1. Will not substantially injure the value of adjoining property or be a public nuisance and,

* There is no evidence to suggest that this type of commercial use would create a nuisance or injure the value of adjoining property.

1. Will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

* Per stated policies in the Town’s adopted land use plan, the reuse of this business will be located on existing, commercially zoned properties.

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* Chairman Richeson then asked the Board if there were any questions/concerns that needed to addressed and Vice-Chairman Parker indicated that as long as the Applicant meets all of the set standards required, he had no further questions.
* Chairman Richeson then addressed Mr. Testerman about including the requirement that all standards are met according to the Fire Marshall and Building Inspector and the reply was ‘yes.’
* Mr. Michael then reminded the Board that the third ADA parking space be required in the recommendation also.
* Chairman Richeson indicated that he counted sixteen (16) parking spaces and could two (2) of those spaces be used for the ADA requirement and Mr. Testerman indicated, ‘yes’ and that would probably be the responsibility of the owner of the property. Mr. Testerman also indicated that with the original structure, there was not an assigned number of parking spaces per individual units and is looked at as one (1) space/350 square feet using the residential requirements. There are sixteen (16) spaces which are located to the front and side of the unit with no particular assigned parking.
* Chairman Richeson asked if that could be required in the recommendation and would be contingent upon the owner of the property to comply with that requirement and Mr. Michael indicated that it would be the owner’s obligation and can be a requirement in the recommendation.
* Mr. Testerman again stated that there are sixteen (16) spaces in front and side of the building and to his knowledge, they are not specifically designated to a particular unit and is shared parking in the entire commercial development. A motion could be recommended for a Conditional Use Permit if the Board so decided.
* Chairman Richeson then asked for a member of the Board to make a recommendation for a **Conditional Use Permit: Vehicle Rental in BC-2, 500 Sand Dune Drive, Units A & B.**
* Vice-Chairman Parker made the following recommendation: ***“I recommend approval of the site plan and Conditional Use Permit for the vehicle rental business located at 500 Sand Dune Drive, subject to the conditions outlined in the Staff Report to include a third ADA parking space and the compliance with the Fire and Building Codes.”***
* Chairman Richeson asked for a vote and hearing no ‘nays’ was approved unanimously.

1. **Shared Parking: Wendy’s, 5430 N. Croatan Highway**

* **NOTE:** Prior to the start of Mr. Testerman’s presentation concerning Wendy’s shared parking, Mr. Tillett recused himself as he is employed by the Applicant’s engineer. Chairman Richeson then asked Mr. Muir to vote in Mr. Tillett’s place and Mr. Muir agreed.
* Mr. Testerman began by stating that ‘a few month ago a recommendation was passed for approval for shared parking for Wendy’s which included eight (8) parking spaces to be used from the ABC lot and the recommendation had a variety of conditions: cross walk, signage to be put in place, etc.
* Shared parking was brought back as the plan has been revised where there are two (2) alternatives where the Applicant has volunteered to eliminate the second of the two alternatives which was similar to the original application using the ABC lot and putting in more stop signs and a stop bar painted on the roadway; these have been taken out of the original proposal.

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* Alternative One is to allocate eight (8) parking spaces that are located to the south of the proposed Wendy’s parcel in the northwest corner of the parking lot for the Shoreside Shopping Center. The option provides for a 4’ paved sidewalk leading from the Wendy’s parking lot to the service road. A marked crosswalk crosses the service road perpendicularly where it will meet another new 4’ paved sidewalk which feeds into the Wal-Mart parking lot where eight (8) spaces will be dedicated to Wendy’s. The crosswalk will also be marked by Pedestrian Crossing Signs. The crosswalk will be located approximately 145 feet to the east of the service road intersection with Cypress Knee Trail and this is a straight shot and is a better alternative instead of the blinding curves which will make this a safer option then previously submitted.

**Conditional Use Standards**

The following conditions have been submitted by the Applicant:

1. Eight of the surplus parking spaces shall be allocated to the Wendy’s site.
2. Crosswalk to be established with pedestrian crossing signs
3. 4’ paved sidewalk to be constructed leading from the roadway to the Wendy’s parking lot.

The following conditions of approval are being recommended by Staff:

1. The off-site parking spaces subject to this CUP be limited to employee parking only.

**BACKGROUND INFORMATION**

* The subject property is 28,668.5 square feet (0.66 acre) in size and presently zoned Beach Commercial (BC-1) and is currently undeveloped.
* The abutting property to the west is also zoned BC-1 and contains the Dare County ABC store. The adjoining property to the east is zoned BC-1 and contains Carawan Seafood and to the south of the subject parcel is Wal-Mart, zoned BC-3 and across 158 to the north is the Town of Southern Shores.

**STAFF ANALYSIS**

**Proposed Use:** Shared Parking

**Parking:** As discussed, the Applicant approves seventeen (17) parking spaces on site and with the CUP approval, would be allowed the use of eight (8) additional spacers off-site that will be dedicated to their operation.

**Staff Recommendation:** After reviewing both alternatives, Staff recommends Alternative One to be used, establishing the parking in the northeast corner of the Shoreside Shopping Center and locating the crosswalk on the service road as was indicated on the sketch plan. Due to poor visibility and high traffic amounts, particularly during the summer months, the first option appears to be the safer of the two alternatives.

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**Land Use Plan:** The Town of Kitty Hawk’s adopted CAMA Land Use Plan designates the subject property as a “Commercial, Shopping and Working Area” on the future land use map. As part of its review, the Planning Board is aked to make a determination that the proposed agreement is consistent with the land use plan.

**Conditional Use Findings:**

Per the standards of Section 42-99(b)(7) and in order to approve this application, the Town Council must make findings that the proposed conditional use:

1. Does not materially endanger the public health or safety,

* In order to reduce any risk to public safety, a crosswalk will be required in addition to paved sidewalks, designating offsite parking to employees only and (if Alternative Two is used, a stop sign and stop bar.)

1. Does meet all required conditions and specifications,

* The proposed agreement has been designed to comply with all applicable standards of the Town Code.

1. Will not substantially injure the value of adjoining property or be a public nuisance, and,

* Adjoining property values should not be injured should the agreement be approved.

1. Will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

* The proposed shared parking agreement has minimal impact on land use and it not applicable to the comprehensive plan.
* Vice-Chairman Parker was concerned about any accidents happening and what would be the recourse.
* Mr. Geraghty asked about the signagew on the crosswalk and Mr. Testerman stated that that would be included in the conditions for signs that would indicate parking for Wendy’s employees only.
* Mr. Testerman also asked, based on last month’s meeting where it was brought up as a requirement to use the reflective thermoplastic paint for the cross bars and should that be included in the recommendation again?
* At this point, Chairman Richeson asked the Applicant’s to come forward.
* Mr. Crouse, Crouse Agency, Gray & Lloyd LLP, Attorney for the Applicant and Mr. Ralph Calfee, Engineer for the Applicant.
* Chairman Richeson stated that on the original site plan he reviewed how the crosswalk would work in conjunction with the property and asked if the original site plan has changed? He also stated that it appears that the pedestrian crosswalk egress is going to be leading into the ingress/egress for vehicular traffic for Wendy’s? Mr. Crouse stated yes.
* Chairman Richeson then asked if there are any potential conflicts with the internal traffic patterns inside the Wendy’s lot with pedestrians and employees coming and going on shift changes, would there be a problem for Wendy’s employees to access their vehicles in the shared parking area within Wal-Mart?
* Mr. Crouse indicated that there will be some crossover but it should not be different for the people who are walking from Harris Teeter crossing that same access way.
* Chairman Richeson stated his concern with the traffic patterns with vehicles going to the takeout window and the cars that are exiting the lot and Mr. Crouse stated that it would not cross that parking lot to get to the actual structure itself and Chairman Richeson wanted clarity in trying to visualize how the new pattern would work and thanked Mr. Crouse.

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* Chairman Richeson then asked for a member of the Board to make a recommendation for the **Conditional Use Permit: Wendy’s Shared Parking CUP, 5430 N. Croatan Highway** and Vice-Chairman Parker made the following recommendation: ***“I recommend approval of the Conditional Use Permit to establish a formal shared parking agreement between Wendy’s at 5430 N. Croatan Highway and the owner of the adjacent property at 5400 N. Croatan Highway, using Alternative one, subject to the conditions outlined in the proposed shared parking agreement. The Board has found this proposal to be consistent with the Town’s adopted land use plan.***
* Chairman Richeson then asked for a vote and hearing no ‘nays’, the recommendation was passed unanimously.

1. **Private Utility: Shoreside Shopping Center**

* Mr. Testerman prefaced this proposal by indicating that this CUP is also in conjunction with the Wendy’s application.

**Proposal:** The Applicant is requesting approval of a Conditional Use Permit for the existing, privately-owned, Shoreside Center sewage treatment collection, treatment plant and drainfields system. Although required by ordinance 42-513(a), a Conditional Use Permit was never issued for the existing system when it was established in the 1990’s. This Application requests formal approval of the existing system that currently serves McDonalds, Wal-Mart, Harris Teeter as well as to add service to the proposed Wendy’s parcel.

**Conditional Use Standards:** Subsection 42-513(a) allows a private utility with the following conditions:

1. The facility must be a part of and located within a subdivision or PUD.

* The existing Sewage Treatment Plant (STP) meets this requirement.

1. The private utility shall be used and serve only the occupants of the subdivision, PUD, multifamily development or commercial development for which it was constructed and approved by the Town.

* The system complies with this requirement for McDonalds, Wal-Mart and Harris Teeter. The Applicant is in the process of a recommendation that will make the Wendy’s parcel a part of the subdivision. Mr. Testerman indicated that the recommendation was on his desk and will submitting that on December 28, 2015 for review and to be recorded.

1. Proposed schedule of user fees and charges shall be submitted prior to a Planning Board recommendation:

* According to the Applicant, because this is not a public utility, it does not charge user fees, instead it allocates costs. Each user is currently billed quarterly for their share of operation and maintenance costs based upon the amount of water metered to each user divided by the amount of water metered to all users served.

1. All associated odors are to be contained within the boundaries of the site.

* Staff is unaware of any complaints of odors generated from the existing operation.

1. The developer shall post a surety bond in the amount of 125% of the repair, maintenance, replacement and renovation costs to maintain the facility for a period of 15 years.

The existing facility has been operational in excess of the 15-year requirement and had there been one initially, the surety bond would have expired by now.

Should a new surety bond be required, the projected 15-year maintenance, replacement and renovation cost from today is $56,250 and the 125% bond amount would be $70,313.

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1. The facility shall be designed and constructed based upon the capacity calculated in gallons of flow per day (GPD) utilizing health department standards.

* The Health Department has issued a ‘conditional approval’ for adding Wendy’s to the existing system and based on the numbers provided by the owners, it appears that there is plenty of capacity in the system.

1. Wendy’s connection to the system requires approval by Shoreside STP.

* Mr. Tom Wheeler, Peachtree Shoreside LLC has issued a statement accepting Wendy’s wastewater for treatment by the existing utility.

1. The entire system must be located on property owned or controlled by the person owning or controlling the system.

* This Application is compliant with this requirement.

**Background Information**

The subject properties consist of the Shoreside Shoppping Center (Harris Teeter & Wal-Mart properties), McDonalds, all zoned BC-3 and the proposed Wendy’s parcel zoned BC-1.

The abutting property to the west is a narrow strip of undeveloped land owned by Kitty Hawk Estates, zoned BR-1 and past the strip are single-family residences in the Kitty Estates subdivision. To the north is a variety of commercial uses zoned BC-1 that includes the Dare County ABC store, Carawan’s Seafood, BB&T Bank and the Gateway Bank. Further north, across N. Croatan is the shopping center located within Southern Shores. The adjoining property to the east is zoned BC-3/PCD and houses Home Depot and to the south of the subject property is property owned by Diamond Resorts and is part of the Beachwoods timeshare development.

**Land Use Plan**

The Town of Kitty Hawk’s adopted CAMA Land Use Plan designates the subject property as a “Commercial, Shopping and Working Area” on the future land use map. As part of its review, the Planning Board is asked to make a determination for the proposed agreement is consistent with the land use plan.

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

* Policy #18a: Kitty Hawk recognizes the use of individual on-site sewage treatment as the primary method of wastewater treatment in Kitty Hawk and will continue to utilize the Dare County Health Department to regulate (permit and monitor) systems. Package treatment plant should be considered only when natural conditions prohibit the use of septic systems as remedial efforts to correct existing failing septic improvements or, if required by ordinance and should be constructed to serve a specific development without excess capacity for off-site wastewater treatment connections. Maintenance of privately owned package treatment plants should be supervised by the NC Utilities Commission or other public agencies.

**Conditional Use Findings**

Per the standards of Section 42-99(b)(7), in order to approve this application, the Town Council must make findings that the proposed conditional use:

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1. Does not materially endanger the public health or safety.

* If all necessary permits are issued and work is done in compliance for adding Wendy’s to the existing system, there is no reason to assume there would be any danger to public health or safety.

1. Does meet all required conditions and specifications.

* As noted above in the Staff report, all required conditions have been met.

1. Will not substantially injure the value of adjoining property or be a public nuisance and,

* The facility has been operational since the 1990’s with no known injury to adjoining property value, there is no indication that allowing the proposed Wendy’s to connect would create such an issue either.

1. Will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

* The addition of Wendy’s to the system, allowing Wendy’s to be built, would be in conformity with the comprehensive plan, as this location is identified as a “Commercial, Shopping and Working Area.”
* Chairman Richeson inquired of Mr. Michael how does it work based on the life of the facility if the bond has since expired.
* Mr. Michael stated that the estimated amount of time to maintain it would be 15 years and the new amount is for the maintenance and operation of the system. Chairman Richeson then asked how that would work and Mr. Michael indicated that adding a new use to the system would be totally the at the Board’s discretion.
* It was also stated that if the system fails the owner would be responsible for fixing it.
* Chairman Richeson asked if this was similar to a construction surety bond and the reply was ‘yes’. He then asked for a member of the Board to make a recommendation for a **Conditional Use Permit: Shoreside Shopping Center Sewage Treatment** and Chairman Richeson made the following: ***“I recommend approval of the Conditional Use Permit to establish a formal approval for the existing private utility as well as allowing the connection of the proposed Wendy’s at 5430 N. Croatan Highway to connect to the existing system. The Board has found this proposal to be consistent with the Town’s adopted land use plan”.***
* Chairman Richeson, hearing no ‘nays’, the recommendation was approved unanimously.

1. **Site Plan Review: East Coast Game Rooms, 3928 N. Croatan Highway**

**Proposal:**

The Applicant has submitted a site plan, floor plans and building elevation drawings in requesting approval for the construction of a new storage building as an accessory use to the existing furniture store on the property at 3928 N. Croatan Highway. The building is proposed to be located in the rear of the existing showroom.

The building is proposed to be approximately 50 feet in depth and 100 feet in length (5,000 square feet). The building would be on story and be approximately twenty (20) feet in height. The warehouse would house excess furniture that is unable to fit within the existing building. The proposal calls for a metal building on a concrete slab.

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Section 43-525 of the zoning ordinance states that “metal buildings which are visible from Croatan Highway or N. Virginia Trail, will be approved only if the fronts, sides and back are architecturally treated with nonmetal facades.

Existing or proposed vegetated or material buffers, screens or fences which obstruct the visibility of the building from adjacent property owners shall not be an acceptable alternative to providing a nonmetal façade. The Planning Board must approve the method in which a building is architecturally treated. It goes on to state that the Town may approve metal buildings which are not visible from Croatan Highway or N. Virginia Dare Trail.

The site currently has ingress and egress from one existing 24’ wide drive off N. Croatan Highway. In addition to the new building, there will be seven (7) new parking spaces added to the warehouse, including one handicapped space.

The new internal traffic flow would also create a safer means for delivery trucks that currently have to pull past the access drive while still on N. Croatan, then reverse into the parking lot and around the lot to the loading dock.

**Background Information**

The subject property is presently zoned Beach Commercial (BC-2). The property presently contains a furniture store with driveway access from N. Croatan Highway. The adjoining property to the south is zoned Beach Commercial (BC-2) and contains La Fogata Mexican Restaurant and the abutting property to the west if also owned by La Fogata Restaurant of a strip approximately six (6) feet in width directly abutting the subject parcel is zoned BC-2, the parcel fronting 158 is currently a vacant lot while the other houses a multi-tenant commercial building. Across n. Croatan Highway to the east if Sanya sushi bar and a portion of the Kitty Hawk RV Park, both zoned BC-1.

The subject property is located entirely within an X flood zone which means that the new building is not required to meet any particular flood elevation.

**Staff Analysis**

**Proposed Use:** Storage warehouse as an accessory use to the existing furniture store. Permitted as a use of right in the BC-1 district.

**Lot Area:** The subject parcel is 55,741 square feet (1.28acres). This size exceeds the minimum lot size (15,000 square feet) and is less than the maximum lot size (7 acres) for the BC-2 district.

**Lot Coverage:** Total existing lot coverage is 17,844 square feet (32%). The proposed lot coverage with the new building, parking and drive aisles would be 30,663 square feet (55%). This figure complies with the maximum allowable lot coverage of 30,756 square feet (60%).

**Open Space:** 45% of the parcel would be considered open space. This percentage exceeds the minimum requirement of 35%.

**Building Height:** The overall height of the one-story building is proposed to be approximately twenty (20’) feet in height. The roofline of the proposed building would comply with the maximum height requirements of thirty-five (35’) from original grade.

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**Building Setbacks:**

Proposed Required

Front 65 feet 15 feet

Rear 55 feet 20 feet

Sides 20.5 feet(south) 10 feet

21 feet(north) 10 feet

All minimum building setback requirements are met by the proposal.

**Access:** The property will continue to utilize the existing 24’ wide ingress and egress drive off of N. Croatan Highway. No changes are proposed.

**Parking:** The minimum number of parking spaces is calculated below:

Parking Calculations #Required Spaces

Retail furniture store 1/300 sq. ft. 18.73 spaces

Accessory warehouse 2

2 spaces/each 3 employees on largest shift

**TOTAL:**  20.73 spaces (fraction rounded up to 21 spaces)

The site plan contains 25 parking spaces which meets the requirements for the proposed uses.

**Dumpster:** A screened dumpster pad containing one dumpster would be relocated to an area immediately behind the existing furniture store.

B**uffers:** Abutting properties are all zoned BC-2. The BR-2 district begins approximately six feet (6’) westward of the property line of the subject property’s border. Strict interpretation of the ordinance would not require a buffer as they are required between commercial uses and residential districts and that transition is on the adjacent property to the west. If a buffer is desired, a Type A or B buffer would be appropriate.

**Lighting:** No new lighting plans have been discussed with Staff. Should the Applicant desire to place new lighting, a lighting plan will be required to be submitted and will be reviewed and approve administratively and should meet the requirements of Section 42-515.

**Signs:** No new signage has been approved at this time and if the Applicant applies for new signage it will be approved administratively.

**Water Service:** As requested by the Fire Department, a new hydrant is being installed on the west side of N. Croatan Highway in the southeast corner of the subject parcel.

**Wastewater Disposal:** All wastewater will be treated via on-site septic. At the time this Staff report was being drafted, the Applicant had not provided a letter that the proposed layout and location are acceptable to the Dare County Department of Environment Health. No building permits will be issued without Health Department approval.

**Stormwater Plan:** As the project would add more than 10,000 square feet of built upon area, a stormwater permit will be required prior to and building permits being issued which would be done through the State agency.

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**Land Use Plan**

The Town of Kitty Hawks adopted CAMA Land Use Plan designates the subject property as a “Commercial, Shopping and Working Area” on the future land use map. As part of its recommendation, the Planning Board is asked to determine whether the proposed development is consistent with the goals and objectives outlined in the land use plan.

The Planning Board has been asked to provide the Town Council with a recommendation regarding the proposed site plan for an accessory warehouse located at East Coast Game Rooms at 3928 N. Croatan Highway. In its recommendation, the Board should determine whether the metal building should be architecturally treated with nonmetal facades or if the Board feels the building location would not be visible from N. Croatan Highway.

* Mr. Testerman stated that the Applicant was in attendance.
* Mr. Geraghty inquired is the metal building would be an accessory use off the highway?
* Mr. Testerman stated that the way it’s worded ‘metal buildings which are visible from Croatan Highway or NC 12 will be approved only if the front sides and back are architecturally treated with non-metal facades existing or proposed vegetative or material buffer screen or fences which may obstruct the visibility of the building from adjacent property owners shall not be an acceptable alternative to providing a nonmetal façade. The Planning Board must approve the method in which a building is architecturally treated.’
* Mr. Testerman went on to say that it doesn’t necessarily specify between primary uses or accessory buildings and Mr. Geraghty asked ‘what is considered visible?’
* Mr. Geraghty stated that he personally feels a storage unit is just an accessory use and was the ordinance put in place to handle road frontage/something that is fronting on the highway?
* Mr. Testerman replied that he felt that that was the intent and that it would be up to the Board and the Town Council to determine whether that was the intent of 42-525 for the ‘strict read’ of the ordinance. He went on to quote directly from the ordinance: “metal buildings visible from the highway that are architecturally treated.”
* In Mr. Testerman’s opinion, a strict interpretation of the ordinance would have to be architecturally treated with a non-metal façade’ but the Town Council may interpret the ordinance differently.
* Chairman Richeson then stated that his drive from the PNC Bank south and once he passed Ferguson’s there is a whole screenshot of the entire back property visible or not visible and he stated that the ordinance states ‘visible’, so a strict interpretation.
* Mr. Michael stated that the wording cannot be changed in the ordinance but stated that one can’t tell if you can see it because it is currently not there. Chairman Richeson stated ‘that in reality, are people really going to see it as they drive south on N. Croatan and he feel you can see it.
* Mr. Tillett stated that he feels the intent of the ordinance was for road frontage and he doesn’t see that particular area as ‘road frontage’ and the primary building does block it; but, if the Board wants to define ‘visible’, it would be visible from the road. He also indicated that the layout on the plan having the delivery trucks be able to turn around inside the site would make it much safer.
* Mr. Geraghty then asked the Applicants about the plans concerning the access:

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* Mike Robinson stated they are trying to make the existing architecture of the building match the new structure. He stated that it is metal and if a nonmetal façade was put on it, it would be painted to look like the rendering does now, and it is behind East Coast Game Rooms and is only a 25’ building. He also stated that, obviously, it is going to be visible if one is actually going to be looking for it, but in reality, it will not be that visible. He also stated, that if there is a wood façade it will look exactly as the East Coast Game Room façade and a steel building would be a lot less maintenance.
* Chairman Richeson stated that it would not be real visible from the north and that someone would definitely have to be looking for it. Here he asked if the Board would take a strict interpretation and look at the trade-off and that the traffic flow would definitely be a lot better as it currently is a problem for vehicles having to stop on the bypass to allow the trucks to back in and the proposed would definitely alleviate danger to the public.
* Mr. Robinson also confirmed that an additional fire hydrant will be added to the site and Mr. Michael stated that that should be part of the recommendation that the Board was being asked to approve.
* Chairman Richeson stated that he feels the intent of the ordinance was actually for the frontage and he then asked for a member of the Board to make a recommendation for the approval of the **Site Plan Review for East Coast Game Rooms, 3928 N. Croatan Highway.**
* Mr. Tillett made the following recommendation: “***I recommend approval of the site plan for an accessory warehouse building at 3928 N. Croatan Highway. Also, it would be up to the Town Council to have the option of re-entering the strict interpretation into the ordinance.”***
* Chairman Richeson, hearing no ‘nays’, the recommendation was approved unanimously.

1. **Comments:**
2. Chairman Richeson welcomed Dusty Rhodes as the newest Alternate member to the Board and congratulations to Mr. Parker as the Vice-Chairman.
3. Planning Board Members - Dusty Rhodes and Bryan Parker thanked Chairman Richeson.
4. Town Attorney – no comment
5. Planning Director – Mr. Testerman stated that he will supply CAMA Land Use Plan maps to all members of the Board.
6. **Public Comment(s):** None
7. **Adjourn –** Chairman Richeson adjourned the Planning Board Meeting of December 17, 2015 at 7:12pm.

John Richeson, Chairman

Respectfully submitted by Patricia Merski, Recording Secretary