**KITTY HAWK PLANNING BOARD**

**MINUTES**

**Regular Meeting, February 13, 2014 – 6:00 p.m.**

**Kitty Hawk Municipal Building**

### AGENDA

1. Call to Order / Attendance

2. Approval of Agenda

3. Approval of Minutes:

a. January 16, 2014 Meeting

4. Administrative Report:

a. Town Council Action from February 3, 2014 Meeting

5. Site Plan Review:

a. Evans & Meads Law Office, 106 Ascension Drive

6. Text Amendments:

a. Section 42-250(d)(6) – Exclude “Roof Access Structures” from Maximum Building

Height Standards in the BC-1 Zoning District

b. Section 42-250(c)(34) – Add “Vehicle Rentals” in the BC-1 Zoning District

7. Develop Planning Board Work Plan for FY 2014-15

8. *C*omments:

a. Chairman Northen

b. Planning Board Members

c. Town Attorney

d. Planning Director

9. Public Comment

10. Adjourn

**1. CALL TO ORDER / ATTENDANCE**

Chairman Northen called the meeting to order at approximately 6:02 p.m., followed with roll call by Planner Heard. Attorney Michael was not present at roll call but did arrive midway through the law office site plan review (agenda item 5).

**PLANNING BOARD MEMBERS PRESENT:** Oscar Northen, Chairman / Lynne McClean, Vice Chair

Richard Fagan / Chuck Heath / John Richeson /Bryan Parker, Alternate / Dylan Tillett, Alternate

**STAFF PRESENT:** Joe Heard, Director of Planning & Inspections / Steve Michael, Town Attorney

**2. APPROVAL OF AGENDA**

Hearing no changes or amendments to the agenda, **the Chair declared the agenda approved as submitted.**

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**3. APPROVAL OF MINUTES:**

**a. January 16, 2014 Meeting.** With hearing no changes or corrections to the minutes, **Chairman Northen declared the minutes approved as submitted.**

**4. ADMINISTRATIVE REPORT:**

**a. Town Council Action from February 3, 2014 Meeting.** As a short summary of action taken by Council at its last meeting, Planner Heard brought forward several planning items of interest:

* Council set March public hearing dates for two amendments: one deals with changes to the Sound Waters Extraterritorial Jurisdiction District, and the other, updates some board of adjustment standards, including notice of appeals and conditional use permits. These issues were recently reviewed by the Planning Board.
* Council went forward with preliminary design engineering related to repaving and widening Ridge Road. Bids are being taken, with a decision anticipated in March and targeted completion before summer.
* With regard to the beach nourishment project, Council reviewed a draft map for the establishment of “municipal service districts,” which are special tax districts where the Town could place a higher tax rate (or tiers of tax rates) for specific capital improvement projects. The process would first establish the actual district boundaries and then assign tax rates at a later date during future budget proceedings. Once the districts are established and taxes collected, the Town will have to begin to spend those monies within a year of its initiation.
* Council passed a resolution supporting the submittal of a CAMA grant for an expansion of the public parking area at the Lillian Street beach access.

**5. SITE PLAN REVIEW:**

**a. Evans & Meads Law Office, 106 Ascension Drive.** Planner Heard reviewed in detail his staff memorandum dated February 13, 2014, which is entered into this record:

***Proposal***

*The applicant is requesting site plan approval to construct a law office at 106 Ascension Drive. As befits its location near the entrance to a residential neighborhood, the proposed office building is designed at a relatively modest scale that will be consistent with many residences in the neighborhood. The proposed office building will be 3,250 square feet in size and contain up to ten (10) employees.*

*Proposed building elevations and floor plans are attached for your reference.*

***Background Information***

*The subject property is presently undeveloped and zoned Beach Commercial (BC-1). The property is 27,148 square feet (0.62 acre) in size and somewhat L-shaped as the rear half of the property widens significantly.*

*The two abutting properties to the east are also zoned BC-1 and have frontage on N. Croatan Highway. The southern of these properties contains the Sweet Frog Yogurt Shop and the northern of these properties contains Atlantic Dentistry and other commercial/office uses. Two parcels also abut the northern (rear) property line. One of these parcels has frontage on N. Croatan Highway, is zoned BC-1, and contains the Harbour Bay South shopping center (Trio, Diamonds & Dunes, etc.). The other lot fronts on Harbour Bay Drive, is zoned BR-1, and contains a playground for the Harbour Bay neighborhood. The adjoining property to the west is split-zoned BC-1/BR-1 and contains a single-family residence that was constructed in 2013. Located to the south, directly across Ascension Drive, is another undeveloped parcel zoned BC-1.*

***Staff Analysis***

*Proposed Use: Professional office. Permitted as a use of right in the BC-1 district.*

*Lot Area: The subject parcel is 27,148 square feet (0.62 acre) in size. This acreage exceeds the minimum lot size of 15,000 square feet in the BC-1 district.*

*Lot Coverage: With the proposed improvements, the total lot coverage for the subject property would be only 8,423 square feet (31.0%). As the BC-1 district has a maximum lot coverage requirement of 60%, the proposed development complies with this standard.*

*Open Space: 69.0% of the subject property would be considered open space. This percentage exceeds the minimum requirement of 35%.*

*Building Height: The maximum building height in the BC-1 district is thirty-five feet (35’) from the existing grade to the peak of the roof. The applicant is aware of this standard and has no problem complying with the maximum height standard.*

*Building Setbacks: The minimum building setbacks are as follows:*

*Required Proposed*

*Front 15 feet 98 feet*

*Rear 20 feet 76 feet*

*Sides 10 feet 14 feet (east)*

*10 feet (west)*

*The proposed office building complies with the minimum setback standards to all boundaries of the subject property.*

*Access: The property is proposed to gain access from a single, 20 foot wide driveway off of Ascension Drive. Ascension Drive is a Town-maintained street.*

*The Town Engineer’s review letter notes that the dimensions of the turning radii at the driveway entrance should be provided.*

*Parking:*

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

*Parking Calculations # Required Spaces*

*3,250 sq. ft. office*

*(1 space/300 sq. ft.) 10.8 spaces*

*10 employees*

*(1 space/2 employees) 5.0 spaces*

***TOTAL******15.8 spaces***

***(rounds up to a minimum of 16 parking spaces required)***

*The proposed parking area contains sixteen (16) parking spaces, which complies with the minimum parking requirements for the site.*

*ADA standards require that at least one (1) of the parking spaces be handicap accessible. The applicants have provided two (2) handicap accessible parking spaces nearest to the handicap accessible ramp at the southeast corner of the building.*

*The Town Engineer’s review letter notes that the parking wheel stops should be shown at the edge of the parking to allow any overhang to occur over the adjoining landscaped area, not within the length of the 18’ parking spaces.*

*Buffers: Due to the extension of the Beach Commercial (BC-1) zoning onto the adjoining residential property to the west, the only area of the subject property subject to a buffer is a small triangle located in the southwest corner of the property. As all structures and parking areas have been located outside of this buffer area, the proposed development is in compliance with the buffer requirements.*

*Although not required, the applicants have proposed a row of landscaping along the western side of the office building to soften the appearance of the building and minimize its impact to the residence on the adjoining property at 108 Ascension Drive.*

*Trash Removal: Rather than the use of a commercial dumpster, the applicant is proposing to use roll carts to accommodate trash removal needs. Due to the relatively small scale of the business, the use of roll carts seems to be a viable alternative.*

*Lighting: The applicant plans to keep exterior site lighting to a minimum. The site plan notes that any site lighting will be installed in compliance with the Town’s lighting standards. A lighting plan must be approved prior to the issuance of a building permit.*

*Signs: The location of a business sign is shown near the front of the property on the site plan. Per the standards of the BC-1 zoning district, the applicant will be permitted to install a freestanding sign as large as 48 square feet in size and 14 feet in height. Additional wall signs could be attached to the building itself.*

*A sign permit must be obtained from the Planning & Inspections Department prior to installation of any signs.*

*Water Service: The project would involve the installation of a one inch (1”) water line running from the existing six inch (6”) water line at the street to the office building. The Dare County Water Department must approve this connection prior to issuance of a building permit.*

*There is an existing fire hydrant located nearly 100 feet to the east of the subject property that will serve the proposed development.*

*Wastewater Disposal: Wastewater needs of the proposed development will be served by a private, individual septic system. The applicant has submitted the proposed design of the septic system to the Dare County Environmental Health Department for review. The Dare County Environmental Health Department must issue a permit for the proposed septic system prior to issuance of a building permit.*

*Erosion & Sediment Control: The applicant estimates that approximately 18,500 square feet (0.42 acre) of the site will be disturbed during the construction process. With minor changes noted in the letter by Anlauf Engineering, the erosion and sediment control plan complies with the Town and State standards and can be approved.*

*Stormwater Management: As the subject property is less than one acre in size, review of the stormwater management plan falls under the Town of Kitty Hawk, rather than a State stormwater permit for larger projects. Anlauf Engineering has reviewed the stormwater management plan on behalf of the Town of Kitty Hawk.*

*As noted in the attached letter from Anlauf Engineering, there are a number of relatively minor corrections and clarifications that need to be made to the stormwater management plan and calculations. However, with the provision of this information, Mr. Anlauf has found the stormwater management plan to be in compliance with the Town’s minimum standards.*

*Flood Zone: The subject property is presently split by flood zone lines, with portions of the property in X and AE flood zones. The base flood elevation (BFE) within the AE zone is 8.3 feet, with a regulatory flood protection elevation (RFPE) of 9.3 feet (including the Town’s freeboard requirement).*

*The applicant has taken care to design and locate the office building entirely within the X flood zone. Therefore, the building will not be subject to any particular elevation requirements.*

### *Staff Comments*

*Staff asks the Planning Board to consider the following comments and conditions:*

* *The dimensions of turning radii at the driveway entrance must be provided on the site plan.*
* *The parking wheel stops on the site plan must be moved closer to the edge of the parking spaces adjoining the landscaped areas.* [During review, the Planner noted the applicant has made this correction.]
* *The Dare County Water Department must approve the proposed water line connection prior to issuance of a building permit.*
* *The Dare County Environmental Health Department must issue a permit for the proposed septic system prior to issuance of a building permit.*
* *A revised stormwater management plan containing all of the amendments noted in the review letter from Anlauf Engineering must be submitted and approved prior to issuance of a building permit.*
* *A corrected erosion and sediment control plan must be submitted and approved by Town staff prior to issuance of a building permit.*
* *An exterior lighting plan must be approved prior to the issuance of a building permit.*
* *A sign permit must be obtained from the Planning & Inspections Department prior to installation of any new signs.*
* *An as-built survey, building height certification, and flood elevation certificate must be submitted and approved prior to the issuance of a final Certificate of Occupancy.*

***Planning Board Action***

*The Planning Board has been asked to provide the Town Council with a recommendation regarding the site plan for the Evans & Meads law office project.*

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

***“I recommend approval of the site plan for the construction of Evans & Meads Law Office at 106 Ascension Drive, subject to the conditions listed above in the staff report.”***

*NOTE: Additional changes or conditions can be recommended as necessary to address concerns and improve the compatibility of the proposed use with surrounding areas.*

***Directions to the Subject Property***

*From Kitty Hawk Post Office, N. Croatan Highway & Kitty Hawk Road, drive approximately 0.8 mile south on N. Croatan Highway. Turn right onto Ascension Drive, immediately after passing Sweet Frog Frozen Yogurt. Travel approximately 250 feet west on Ascension Drive. 106 Ascension Drive is a wooded property located on the right, between the rear of the Sweet Frog property and the residence at 108 Ascension Drive.*

During the review, a copy of the site plan was displayed.

Upon the Planner’s summary, the Chairman asked the applicant to offer any additional comments or pose any questions. Michael Strader with Quible & Associates was the presenter on behalf of the applicant.

Strader said the proposal is in full compliance with the Town’s dimensional standards and development codes. Regarding stormwater and wastewater, the site has been designed to capture all the impervious runoff, with two separate drainage areas. He referred to a drainage plan included in the application materials.

Essentially, the first drainage area covers the parking lot itself, which flows within the buffer. The second drainage area consists of the proposed building. A roof gutter system conveys stormwater to the basin identified as “B.” Strader stated the computations have been updated based upon staff review comments. All stormwater information going forward to Council should be clear. As to the wastewater system (a septic tank with a conventional draininage system, fairly low maintenance), it is sized for ten employees, and an improvement permit has been obtained from the county’s health department.

Discussion by the Board began with Chairman Northen inquiring if the applicant has any problem complying with the items addressed by the Planner which have to be met before obtaining all permits and approvals. Strader indicated the applicant has no issues complying with any conditions, noting that most have already been addressed.

Due to being employed by Quible & Associates, the applicant’s engineering firm, Alternate Tillett asked to be recused from the Board’s discussion.

VC McClean recognized many of the issues have been addressed, adding she had nothing in particular to bring up at this point, but reserved the opportunity to make comments at the end of the Board’s review.

Fagan stated the design has been well conceived, which the Chairman echoed.

Board members were further polled by the Chair to offer questions or comments, and upon hearing none, a recommendation was requested. **Fagan then moved to recommend approval of the site plan for the construction of Evans & Meads Law Office at 106 Ascension Drive, subject to the conditions listed in the staff report to which the applicant has stated he will comply. The motion carried unanimously, 5-0.**

**6. TEXT AMENDMENTS:**

**a. Section 42-250(d)(6) – Exclude “Roof Access Structures” from Maximum Building Height Standards in the BC-1 Zoning District.** The Planner recalled the Board having addressed this text amendment at its last meeting. In addition to the applicant’s original proposal, some new items in the proposed ordinance relate to size and height, responding to concerns that were identified. Planner Heard then reviewed his staff memorandum dated February 13, 2014, which is entered into this record:

***Applicant’s Original Proposal***

*Subsection 42-250(d)(6) of the Town Code outlines the standards for maximum building height in the Beach Commercial (BC-1) zoning district. The applicant originally proposed a simple amendment creating an exemption from the 35 foot maximum height for “roof access structures”. If the originally proposed text amendment is adopted, the standards would be amended to read as follows:*

*“(6) Maximum total height shall not exceed 35 feet from existing grade exclusive of chimneys, flagpoles, communication masts, aerials, and roof access structures.”*

***Amended Proposal Per 1/16 Planning Board Meeting***

*As a result of discussion at the Planning Board meeting on January 16th, it was agreed that additional concerns needed to be addressed regarding the use of roof access structures. So, the proposal has been amended to include a definition for roof access structures and the following standards (see the attached draft ordinance):*

* *A roof access structure can be no taller than eight feet (8’) in height measured from the roof to the highest point of the structure.*
* *The maximum size of a roof access structure is 48 square feet.*

*The draft ordinance also proposes to allow these standards for roof access structures in all of the Beach Commercial (BC) zoning districts, not just the BC-1 district. To simplify the amendment, staff has proposed to add a new subsection under Section 42-7, Structures excluded from height limitations. However, the amendments could be made to the development standards in each zoning district if the Board members think that option would be clearer.*

### *Background Information*

*The applicant has expressed an interest in installing a roof access structure to cover the entrance to an internal stairwell that would provide access to the roof of the Outer Banks Blue Realty building at 3732 N. Croatan Highway (three story building constructed in 2008 for the Bank of Commonwealth). This building was constructed at the maximum permissible height of 35.0 feet. As the total height is measured to the highest point of a structure, the additional height necessary to accommodate a roof access structure would put the building over the maximum height requirement. Therefore, the applicant is seeking this amendment to allow the proposed roof access structure.*

*Roof access structures are relatively small structures that typically protrude from the top of a flat roof. They are generally constructed with a shed roof and have an access door on one side that leads to an interior stairwell. The purpose of roof access structures is to maintain a weather-tight roof while allowing access onto a roof.*

*It is important to note that roof access does not have to be provided through a walk-out roof access structure. There are many products similar to hatches or trap doors that can be mounted on flat or pitched roofs and are much lower in profile, but still provide convenient roof access.*

*The attached photographs show examples of roof access structures. A local example can be found on the roof of the Metro Rental business directly behind the Kangaroo station at Colington Road (Milepost 8).*

***Staff Analysis***

*Staff had a concern that the applicant’s initially proposed text amendment would create some unintended loopholes that could be exploited in the future. In particular, staff was concerned that someone could attempt to construct a much larger roof access structure that, while providing access to the roof, would also double as a sunroom, gathering space, or other occupied space. The addition of the standards for maximum area and height has addressed this concern.*

*The applicant has only proposed the text amendment in the Beach Commercial (BC-1) zoning district. There would be some logic to applying this exemption from maximum height requirements for roof access structures in certain other commercial zoning districts, all commercial zoning districts, or all zoning districts (residential and commercial) in the Town. There was some discussion of these alternatives at the last Planning Board meeting, but no final decision was made. As a basis for discussion, staff has expanded the proposal to include the BC-2 and BC-3 districts in the draft ordinance. However, the Board members may want to give further consideration to how broadly these standards should be applied.*

*There was a good amount of discussion regarding the use and safety measures for roof decks at the last Planning Board meeting. While these are significant issues and could be amplified by the use of roof access structures, it is important to recognize that these issues could apply to any building and are separate from the proposal concerning the height allowance for roof access structures. Planning staff has researched several of these issues with the Building Inspection and Fire departments and provides the following information for your consideration:*

* *As a rooftop area is an outdoor space, neither the N.C. Fire Code nor N.C. Building Code regulates the maximum size of such an area.*
* *The maximum occupancy of a rooftop gathering area would be determined by the width of the stairway leading to the roof. The minimum width for this type of stairway would be 48”. A 48” wide stairway would allow for occupancy by up to 160 people.*
* *The maximum occupancy could be further limited if the property owner opted to reduce the size of the space being enclosed and used as a gathering area.*
* *A rooftop gathering area would be required to be secured in its entirety by a railing at least 42” in height.*

### *Consistency w/ Land Use Plan*

*The Town’s adopted CAMA Land Use Plan states the Town’s intention to regulate the intensity of development and oversized structures by enforcing building height, lot coverage, and building setback standards, but does not specifically address the issue of roof access structures.*

*As part of its recommendation, the Planning Board is asked to make a determination whether the proposed text amendment is or is not consistent with the adopted CAMA Land Use Plan.*

***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 amendment creating an exemption from the 35 foot maximum height requirement for roof access structures in the BC-1 zoning district. [Add any suggested changes to the proposal here.] The Board has found this proposal to be consistent with the Town’s adopted land use plan.”***

The Planner noted another issue discussed at the prior board meeting which needs to be addressed - how to apply the proposed text amendment with regards to multiple-tenant buildings, whether roof access structures would be allowed for every business or limited to one per building.

Upon question by Chairman Northen regarding the 48” wide stairway, Heard indicated such is dictated by the building and fire codes, if there is access to the roof for other than maintenance. As to what control the Town may have to set safety standards above the State’s building codes, such as requiring the railing to be set back so far from the roof’s edge, legal counsel needs to examine the issue. As to the applicant’s stairway, current access is gained by a ladder and hatch, and presuming the proposal goes forward and is approved, the applicant would construct an internal stairway.

The Chair indicated he and VC McClean met with Planner Heard for a pre-review meeting, at which he posed only one roof access structure should be permitted for each building regardless the occupancy of the building. It would not be desirable for a strip mall with ten tenants to have ten stairways.

Tillett had no comments or questions at this time.

As to the (up to) 160-person occupancy allowance, Parker posed if the roof area could be rented, for example, by a restaurant business in the structure. Heard replied the zoning of the property would permit a restaurant, although there would be some parking, building and fire code, and septic issues that would have to be addressed. Potentially, it is something which could be permitted.

With regard to multiple accesses, Richeson indicated he agrees with the Chair’s position, describing new construction could address having only one common access. Current multi-tenant properties having only one access within a given shop does present the need for common access.

Fagan said he also concurs with the Chairman’s statement regarding multi-tenant use. Recalling the Board’s discussion at its last meeting, Fagan noted Cahoon had indicated a number of triggers would take place, such as fire codes and insurance regulations, reacting to any potential applications for the subject use. Attorney Michael explained the proposed use as presented simply states use by employees, which would trigger some inspections by the Town to ensure compliance with the State’s building and fire codes and Town regulations. As to other codes that might be implicated, as far as insurance coverage, it would be left up to the insurer to determine risk.

When discussion turned to the 42” railing standard, Heard noted that such a railing could be predominately opaque but not fully, and the Chair recognized many construction issues come into play.

Continuing, Fagan pointed out the previous review discussed the roof being a membrane roof, and Attorney Michael stated such becomes an engineering problem as to whether or not the roof can take the load. Heard noted the Town would require certification by an engineer as to design and construction.

When Fagan asked, *“Would the applicant be aware of these triggers that go into effect in the application process?,”* Heard replied it is part of the building permit process. When someone would propose a project, staff would make the applicant aware of the needed information and requirements.

VC McClean also supported a single-roof access. With considering what is currently in Kitty Hawk and what could potentially develop, one access structure per building would be her preference. Addressing Fagan’s comments, VC McClean stated that risk assessment and coverage amount is between the insurance carrier and the policy holder, which is an issue not germane to the Town’s focus.

As to the railing’s height requirement, McClean said it does provide peace of mind for safety; however, a question remains how the railing applies under a building’s 35’ height restriction. Heard replied that his interpretation off the cuff is the safety railing would fall within the 35’ restriction, as a railing would be a permanent structural feature. He noted the ordinance contains an exemption from height standards (up to 4’) allowing for architectural features that are not occupied space. Chairman Northen recommended language be added to the draft ordinance to clarify the same for railings.

Richeson asked if a paving block could potentially exceed the height requirement, and Heard replied that if it is a permanent structural part of the building, it would be. The applicant’s building is exactly 35.0’, and anything that raises the height of the building by an inch puts it out of compliance.

With hearing no further comments, the Chair called for a recommendation. **Fagan moved to recommend approval of the proposed text amendment creating an exemption from the 35‑foot maximum height requirement for roof access structures in the BC-1 zoning district, including other safety features necessary. The motion carried unanimously, 5-0.**

For clarification, Planner Heard identified intent of the motion as being *“an additional exemption for the railings themselves, as necessary,”* and the other aspect discussed with Board consensus was limiting one roof access per building, not per business. **Fagan concurred with the Planner’s summation, adding as well that the Board has found the proposal to be consistent with the Town’s adopted land use plan.**

**b. Section 42-250(c)(34) – Add “Vehicle Rentals” in the BC-1 Zoning District.** Planner Heard briefly summarized the history behind this text amendment application. A review was given of his staff memorandum dated February 13, 2014, which is entered into the record:

***Proposal***

*The applicant’s proposal would add the following wording as subsection 42-250(c)(34) of the Town Code:*

*“(34) Vehicle rentals, subject to the following conditions:*

1. *All rental vehicles must be properly parked within designated parking areas on the site per an approved site plan.*
2. *Rental vehicle repair and/or maintenance shall not be performed on site unless as part of a vehicle repair operation that has also been approved on the site.*
3. *No more than seven (7) rental vehicles may be simultaneously parked on the site.”*

*During his original proposal last year, the applicant proposed to allow vehicle rentals as an ancillary use to the primary commercial use of a property. At this time, the applicant is proposing to allow vehicle rentals as a stand-alone conditional use that could be permitted as the sole or primary use of a property or as one of many tenants on a multi-tenant commercial property. Either way, the site as a whole would have to comply with all development standards (such as parking, access, etc.).*

***Planning Board Recommendation on Previous Proposal***

*At its meeting on July 11, 2013, the Planning Board voted (4-1, Fagan opposed) to recommend denial of the proposed text amendment to add subsection 42-250(c)(34) allowing vehicle rentals as a conditionally permitted use in the Beach Commercial (BC-1) zoning district.*

*Comments supporting the recommendation of denial included:*

* *Traffic flow could be a concern with multiple uses and additional traffic from the vehicle rental business on a property.*
* *Vehicle rentals could potentially be established on any BC-1 zoned property in Town.*
* *The wording of the “not more than seven (7) rental vehicles may be simultaneously parked on the site” condition would potentially allow for more than seven (7) rental vehicles to be part of the rental business.*
* *There is no restriction on the size of the vehicles to be rented.*

*(NOTE: the applicant’s initial proposal contained a condition that did not permit “high occupancy vehicles.” After discussion between the Board and Town Attorney, it was agreed that it would be difficult to limit the types or brands of vehicle.)*

*Comments in favor of the application included:*

* *Any proposed vehicle rental operation would be a conditional use and could be reviewed on a case-by-case basis.*
* *In the applicant’s situation, the two businesses (car wash and vehicle rental) could potentially operate without interfering with each other.*

*Following the Planning Board’s recommendation, the applicant withdrew his text amendment application prior to consideration by the Town Council. So, no final action was taken on the application. As he has made several changes to the proposal, the applicant wishes to have the proposed text amendment reconsidered by the Planning Board at this time.*

***Background Information***

*Presently, vehicle rental operations are not a permitted use in the Beach Commercial (BC-1) zoning district. Although several local businesses offer loaner or courtesy cars to customers having vehicles repaired, Planning & Inspections staff is aware of only one (1) business in town that is renting vehicles at this time. Home Depot, which is located in a BC-3/PCD zoning district, rents large equipment and vehicles to customers, mostly related to construction projects.*

***Staff Analysis***

*While searching for similar ordinances, most of the standards found deal with larger, stand-alone vehicle rental businesses (Avis, Budget, Hertz, etc.). After reviewing a number of ordinances relating to vehicle rentals from other communities, standards are often used to address the following concerns:*

* *Location where vehicles can be parked or displayed*
* *Screening/buffering of the area where vehicles are located*
* *Standards for lighting*

***Vehicle Rental Requirements - Other Local Communities***

*Manteo, Nags Head, Kill Devil Hills, Southern Shores & Duck:*

*No specific requirements.*

*Dare County:*

*Permitted use in certain commercial districts. No listed conditions or standards.*

*Currituck County:*

*Automotive Sales & Rentals - Uses primarily involving the sales or rental of automobiles, trucks, recreational vehicles, or travel trailers, shall comply with the following standards:*

*(a) The use shall be located on a lot of at least 40,000 square feet in area and a minimum lot width of 125 feet;*

*(b) The use shall not have more than one vehicle display pad for every 100 feet of street frontage. The vehicle display pad may be elevated up to two feet above adjacent displays or grade level;*

*(c) Vehicle displays may not take place within required setbacks and shall include a Type A perimeter landscaping buffer between the display area and the street;*

*(d) Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone;*

*(e) No vehicles or other similar items shall be displayed on the top of a building;*

*(f) All lights and lighting shall be designed and arranged so no source of light is directly visible from any adjacent property; and*

*(g) Light repair and service functions are permitted as an accessory use provided all repair-related activities take place within an enclosed building.*

***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.*

*As part of its recommendation, the Planning Board is asked to make a determination whether the proposed text amendment is or is not consistent with the adopted CAMA Land Use Plan.*

***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 amendment allowing vehicle rentals as a conditionally permitted use in the Beach Commercial (BC-1) zoning district, subject to the conditions proposed by the applicant. The Board has found this proposal to be consistent with the Town’s adopted land use plan.”***

*Additional conditions can be added to address any concerns of the Planning Board.*

The applicant, Gene Martin, owner of Kitty Hawk Car Wash, was present for this review of the vehicle rental text amendment.

Chairman Northen verified that with the proposed use being presented as a conditional use, each future request would be individually reviewed by the Planning Board and Council on a case-by-case basis.

The Chair asked about the type of vehicles the applicant wants to rent, and Martin specified that his vehicles are Jeep Wranglers and nothing else.

VC McClean noted the Town Attorney has already indicated in previous review text language cannot limit the brand or models of vehicles used.

VC McClean then addressed the language of *“no more than seven (7) rental vehicles may be simultaneously parked on the site,”* which leaves a loop open for the potential of more than seven vehicles to be engaged in the business. As to how to be in compliance with the proposed standard, the applicant indicated that if he were to own or operate more than seven vehicles, those additional vehicles would be stored at a separate facility. In the situation of a vehicle being returned, it would be taken immediately for cleaning, thus an overlap of vehicles should not occur. VC McClean indicated she is being mindful of not just the applicant’s potential location but all properties in the subject zoning district.

Chairman Northen asked the applicant if he would keep the vehicle rental business in operation if the car wash business were to close. Martin explained he has two separate loans, two different LLCs, and if one business does not make it, hopefully the other would continue to operate. He has successfully operated the car wash business for over six years, which was closed at the time of his purchase.

Fagan stated he had no comments or questions to bring forward.

Richeson asked the Planner to explain the conditional use as one of many tenants on a multi-tenant commercial property, posing if someone could decide to rent a few vehicles using the Walmart parking lot. Heard explained the intent of the language referenced, citing the difference between the current proposal as a stand-alone conditional use as opposed to the previous proposal as an ancillary use where there had to be another primary commercial use on the property. As proposed, an application could come in on any BC-1 zoned property to build a new stand-alone business as long as they meet the conditions for the development standards. Also, it does not preclude someone from coming in and requesting a conditional use permit to locate that type of business in a shopping center.

For example, if there was a vacancy at The Dune Shoppes and someone wanted to use one of those units as the rental office, if there was enough parking, a vehicle rental business could be approved at that location. If someone were to set up a vehicle rental business at Walmart, it would go through the same process as someone developing an outparcel.

If parking is inadequate at a strip center, the application would certainly be denied. Proposals would generally be first analyzed by staff, and unless pushed by the person seeking the use, such requests would never come before the Planning Board or Council if the proposal does not comply with basic standards. Enough parking would have to be available above and beyond the other businesses’ needs in order to allow for this type of business to locate on a multi-tenant property.

Richeson asked the applicant if the number of rental cars would be monitored by a certain employee, and Martin explained he currently operates his five rental vehicles out of a shopping center in Kill Devil Hills, which is farther from the car wash operation than he desires, making it sometimes difficult to monitor the number of vehicles. With a rental location in Kitty Hawk, monitoring should be no problem when able to go between the kiosk rental office and the car wash much quicker.

As to the kiosk operation, the Planner noted that with any proposed use going through the conditional use permit process, all factors would be analyzed – setbacks, lot coverage, etc. It would be evaluated at least on a conceptual level with the applicant before any application submission so one does not go through the trouble and expense of putting together a site plan when the opportunity is not really there. If the lot coverage on a property is already completed maxed out, then the only way a new building could be located is if something else is removed. For residential situations, there have been circumstances where property owners saw cut out portions of a driveway or removed a portion of a deck in order to accommodate a new pool. It would be the same kind of trade‑off.

Heath indicated he had no comments or questions.

Tillett inquired if the proposal has a loop hole where someone could have, for instance, twenty cars as part of the total operation, but actually with the condition set as only seven can be parked at the subject location and the other thirteen stored elsewhere, is there a way for a standard to be set that only a given amount of vehicles could be involved in the overall operation. Recalling McClean’s similar comment, Heard suggested that staff looking at the number of vehicles on a property is probably the most straight-forward way to enforce the standard. The Town needs to be more concerned with what is being determined on a day-to-day basis, and from an enforcement standpoint, it is easier to observe an operation physically rather than trying to track ownership of vehicles.

Martin indicated he agrees it would be better to drive by and count the parked vehicles.

As to his operation in Kill Devil Hills, which involves five vehicles, Martin indicated to the Chair he has not had all five vehicles rented out at the same time. The Chair reiterated the Town’s concern would be the number of cars on site at any given time.

VC McClean offered the Board seems to be cued in on the number of cars being set at seven, although seven cars may be appropriate for one site but not another. As to other requests, if the proposed language were adopted, Planner Heard indicated an applicant would not be able to have more than seven vehicles, but could have less than seven.

Attorney Michael interjected he does not believe the Board can limit a particular business to less than seven vehicles if that’s what the ordinance allows. If an applicant meets the requirements to rent seven cars, that is what the conditional use provides for.

In struggling with location issues, McClean posed if language should address a number which is to be deemed appropriate for a given location and not specify an overall set number. The Attorney indicated such would be unenforceable. Martin offered the proposed restriction is to keep vehicle rental operations small and prevent larger commercial rental businesses.

Attorney Michael pointed out that with conditional uses, it means the Town goes through the review process – it does not mean that the Town has a free hand in rewriting the rules for each one that comes through as an application. When someone comes in and applies for a conditional use and they meet all of the set requirements in place, it has to be approved.

Responding to a question by Heath, Martin said a customer’s personal vehicle is not left onsite when renting, so when the rental is picked up, the personal vehicle is also removed from the property.

If removal of the personal vehicle is an important issue for the Board, Heard recognized, then the draft ordinance language needs to be amended to include such as a condition. This restriction would be helpful if the Board is concerned with the overall number of vehicles on a site.

Chairman Northen posed how some locations might be able to accommodate personal vehicles being parked while the rental is being used.

Attorney Michael clarified that if the proposed ordinance was adopted without such a condition requiring the removal of the personal vehicles, an applicant could not be denied the conditional use request based upon his intention to not have the personal vehicles taken away. Martin’s proposed practice is being given as his business conduct model, not as a requirement.

Discussion continued about including language to require personal vehicles being removed, or to set an overall number for parked vehicles whether rental or personal.

As a point of order, Fagan asked to address the proposed language being amended regarding personal vehicles, following Martin’s model of operation that no renters’ personal vehicles be on the property while they are using the rental vehicles.

Martin indicated he concurs with such a language modification.

Staff took a moment to draft appropriate language, with the Attorney suggesting wording to indicate no customers renting vehicles may leave their vehicle on the site. However, Heath recommended that language address the total number of vehicles parked on the site, allowing for customer convenience when someone may only want to rent a vehicle for a few hours.

Discussion then cited the proposed location (former Solo/Mobil station) the applicant has in mind for his rental operation, hoping that rental customers will also patronize the other businesses to encourage business growth. Concern was reiterated by Parker relating to identification of rental vehicles for compliance and enforcement purposes, mindful that the other businesses would need adequate parking for their customers. Heard noted a conditional use review of a multi-tenant property would evaluate the overall parking needs for the entire site, requiring a minimum amount of parking needed to serve the proposed new business.

Richeson posed the potential of vehicle renters parking their cars at another business in a multi-tenant use, and the Chairman redirected the Board’s focus to the issue at hand as being the number set for the subject business use.

Attorney Michael offered a simple way to fix the issue being discussed - under paragraph (c), add another condition *that no more than seven (7) rental and/or customer vehicles may be simultaneously parked on the site.*

Martin consented to the proposed language amendment.

**Fagan moved to recommend approval of the proposed text amendment allowing vehicle rentals as a conditionally permitted use in the Beach Commercial (BC-1) zoning district, subject to the conditions proposed by the applicant and as stipulated by the Town Attorney, adding the Board has found this proposal to be consistent with the Town’s adopted land use plan.** With a call for the vote, **the motion carried unanimously, 5-0.**

**7. DEVELOP PLANNING BOARD WORK PLAN FOR FY 2014-15**

Planner Heard noted how each year the Planning Board puts together its work plan while the Council prepares the annual Town budget proposal. Input by all committees and boards is requested as to activities anticipated in the upcoming year.

Referencing a draft outline, the Planner noted priority items #2, #3 and #4 are typically seen on the work plan each year, recognizing the Planning Board is evaluating development standards and holding meetings. Monies are set aside for payment of services rendered. Funds are also reserved for training purposes.

Focus was directed to priority item #1, for which the Planner offered a draft plan for discussion. Feedback has been obtained from Mayor Perry, some Council members and the Town Manager, and there is an interest in considering an update to the Town’s CAMA Land Use Plan. It is coming up on almost ten years since the last update, which is a long time between updates, and the sitting council (some elected eight years ago) was not involved in the current plan development and may have different philosophies on certain development issues and trends.

Heard recalled how in the past the Planning Board has proposed to the Council to review the LUP and address the Town’s zoning districts, particularly commercially zoned properties in between the highways which have developed residentially, as well as certain areas along Kitty Hawk Road and The Woods Road to determine if the zoning is still appropriate for those areas.

Also, many things could be looked at as part of a larger planning effort such as developing a vision for what Kitty Hawk could look like ten or twenty years down the road. The Town could work with its citizens in coming up with the ideas.

The overall feedback has indicated the Town probably does not have the funds to hire an outside consultant, which would be a $50,000 to $60,000 expense to facilitate the whole planning process with a plan prepared. Council is open to considering something with Planning Board input and Town staff involvement, a process more internally driven with the Council’s oversight.

The Planner asked Board members to think about what they may deem capable to undertake in such a planning process and different ways to involve citizen input. Although input can be given through the next week, the bulk of the work plan needs to be addressed this meeting, as the initial work plans have to be submitted to the Town Manager by February 25th.

Once input is received, a budget figure can be assigned to that work item, such as for scheduling additional meetings where focus can be given. For example, an additional three Planning Board meetings would cost the Town approximately $2,200. Regarding map development, since there is not in-house capability for such, this service would have to be hired out. Citizen surveys would also involve a significant cost for printing and postage.

Chairman Northen said the Board should first agree the LUP needs to be updated, offering he feels there is a consensus of support for an update. A map should be developed identifying any areas of concern, with a list of suggested changes.

As far as public input, the Chair asked, would an announcement placed in the local newspaper suffice or does each property owner have to be contacted? There is no magic requirement as far as what the Town has to do, the Planner replied, as it is a matter of what the Town wants to do. People nowadays get their information in many different ways as compared to just ten years ago.

Using the example of Kitty Hawk Road, Chairman Northen said the Board could first examine the current land uses and zoning, and determine whether or not there is any need for changes – that such an initial discussion would perhaps be easier without public input. The public being involved once recommendations are made at the Planning Board or Council level.

The Chair generally cited situations where commercial and residential properties face one another, indicating such areas need to be re-evaluated in light of future development concerns.

Fagan asked to go on record as saying that he agrees with the Chair’s proposal, recommending the possible inclusion of a statement recognizing the public would be involved at a later time after the Board’s initial reviews.

An exception may need to invite special interest groups of persons, such as was done with kayak users when a conflict of uses had occurred. Chairman Northen commented the Board has always had this type of option.

VC McClean inquired as to how many Kitty Hawk citizens get the Town’s newsletter by email, and Heard replied he could more easily report the total number of people who receive the newsletter but it would require a breakdown to estimate which are actual residents or property owners.

Planner Heard also highlighted how the LUP update would involve more than just land uses, citing transportation and environmental issues as examples.

For the work plan to move forward, the Planner requested that Board members look at their role for the LUP update process and the underlying aspects of review and final document, asking for recommendations on meetings and discussions that need to occur, also considering who would provide background information on all issues. How much the Planning Board can actually accomplish in light of current workload and future applications has to be determined.

The Chair reiterated his suggestion that the first step should be that the Board meet and discuss various sections of Town as to current uses and trends, then making recommendations for potential changes. As an example, he cited U.S. Highway 158 needs to be looked at for its character of residential properties on one side and commercial properties on the other, whether or not that works, or to even address what happens when residents or businesses no longer choose to be a part of Kitty Hawk.

As to the second step, Chairman Northen said the recommendations could be presented to Council and they determine what to do next.

Fagan recognized how an update is not asking to “re-invent the wheel,” as the current professionally-prepared land use plan could be followed and a topical update of one section or a few sections at a time could be done, nor is the Planning Board trying to pass itself off as professional planners. His viewpoint of an update is to address what the Board keeps dealing with on a meeting-by-meeting basis – the problems, for example, with split-zoning. The two major tools the Board has to base its recommendations upon are the LUP and the Town Code. The LUP has definite statements and objectives that are addressed when determining the appropriateness of an applicant’s request(s), and those requests are really what drive the need for the update. His comments continue:

*“We keep saying to the one person that I have in mind right now and is standing there, ‘well, we don’t have that tool,’ had to say that to them. We don’t have that tool, and if we had a tool like that, we would be addressing other things in other ways. Well, we already know the view of the Council on that, so that’s pretty much a proposition for us resolved right there, and that may be a good thing – for us to find out through our own proposals exactly what the Council wants us to do. If they find us going beyond what they think our position is or our authority is, then they have every right to rein us back in. I realize that, but how do they know outside of the situations that keep facing us here meeting after meeting? That’s my view of an update.”*

Chairman: *“I think anything that we would come up with would be the basis for a new CAMA land use plan, if and when they would ever get into it again.”*

Heath echoed his concurrence with the statements.

Turning to technical issues, such as wetlands, VC McClean said those issues are not evolving and changing, pretty much out of the Planning Board’s control. CAMA requires examining soil types. What the Board’s focus should be is the Town’s vision for Kitty Hawk with land uses, to which the Chair concurred. McClean then offered how planning tools need to be developed that cover new ideas being presented by applicants.

As he directed attention to the time being near 8:00 p.m., Chairman Northen pointed out an update effort would require much of the Board’s time and energy, posing if Board members would be willing to stay another hour or more after the close of regular meetings.

Upon question by McClean if a LUP update has been requested by the Town Council, Planner Heard reported Council members do have an interest in seeing the plan updated although they need to be comfortable with how it may happen and are counting on the Board’s participation and key assistance. He commented on an upcoming workshop for LUPs, to be attended by a Council member along with Town staff, which will inform the town about current LUP standards and offer an opportunity to provide input on future standards for the LUP process.

In summary, Planner Heard indicated he would put together a draft work plan based upon the comments made this meeting, that Board members would have an opportunity to review it and provide input over the next week. After the Board’s review, it would be forwarded to Manager Stockton and, ultimately, Town Council members.

**8. COMMENTS:**

**a. Chairman Northen.** The Chair had no other items to bring forward.

**b. Planning Board Members.** No comments were made.

**c. Town Attorney.** Nothing further was addressed by the Attorney.

**d. Planning Director.** Nothing more was brought forward by the Planner.

**9. PUBLIC COMMENT**

There was no public input.

**10. ADJOURN**

With no other items, **the Chair declared the meeting adjourned at approximately 7:58 p.m.**

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Oscar Northen, Chairman

Attachments: 0

Minutes Transcribed and Respectfully Submitted By: Betty Moore Williams