

**KITTY HAWK PLANNING BOARD  
MINUTES  
Regular Meeting, July 11, 2013 – 6:00 p.m.  
Kitty Hawk Municipal Building**

**AGENDA**

1. Call to Order / Attendance
2. Approval of Agenda
3. Approval of Minutes:
  - a. June 13, 2013 - Regular Meeting
4. Administrative Report:
  - a. Town Council Action from July 1, 2013 Meeting
5. Text Amendment:
  - a. Section 42-250(c)(34), Vehicle Rentals
6. Zoning Amendment:
  - a. 108 Ascension Drive – Beach Commercial (BC-1) to Beach Residential (BR-1)
7. Comments:
  - a. Chairman Northen
  - b. Planning Board Members
  - c. Town Attorney
  - d. Planning Director
8. Public Comment
9. Adjourn

**1. CALL TO ORDER / ATTENDANCE**

Chairman Northen called the meeting to order at approximately 6:03 p.m., followed with roll call by Planner Heard.

**PLANNING BOARD MEMBERS PRESENT:** Oscar Northen, Chairman / Craig Garriss, Vice Chair  
Richard Fagan / Lynn McClean / Jeff Pruitt / John Richeson, Alternate

**PLANNING BOARD MEMBER ABSENT:** Chuck Heath, Alternate

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

The Planner offered that the Board's newest member, Chuck Heath, has expressed his regrets with being unable to attend this meeting.

**2. APPROVAL OF AGENDA**

Hearing no changes or additions, **the Chair declared the agenda approved as presented.**

**3. APPROVAL OF MINUTES:**

**a. June 13, 2013 - Regular Meeting.** With hearing no changes or corrections to the minutes, Chairman Northen declared the minutes approved as submitted before the Board.

**4. ADMINISTRATIVE REPORT:**

**a. Town Council Action from July 1, 2013 Meeting.** As a brief summary of action taken by Council at its last meeting, Planner Heard brought forward the following items of interest, noting the Council has had a busy month with development applications reviewed by the Planning Board:

- Council held public hearings and made decisions on two rezoning applications:
  - Unanimous approval was granted to rezone the remaining property at 108 W. Sibbern Drive to the BC-1 district. With the rezoning, the commercial buildings associated with the former day care center were brought into conformity.
  - Unanimous approval was also granted for the rezoning request to the VC-2 district at 926 W. Kitty Hawk Road. The rezoning will allow a landscaping business to be conducted on the property.
- Council approved the site plan for parking expansion at Hurricane Mo's. Planner Heard noted the applicant and his engineer, along with the Town's engineer, worked over several weeks to address the stormwater issues discussed during the Planning Board meeting. The approved project now meets all Town stormwater standards without losing any of the additional parking.
- Council approved the three-lot final subdivision off Emeline Lane.
- A hearing date was set for the conditional use permit for the second-floor apartment above the day care at 4009 N. Croatan Highway.
- A fee waiver was granted for a permit to an applicant who has spent the better part of the last two years trying to decide use of their property located at 1300 W. Kitty Hawk Road. Said property had been damaged by Hurricane Irene, and with the old structure demolished, a new residence is to be built.
- Appointments were made to Town boards and committees:
  - For the Planning Board, new member Chuck Heath was appointed. Heath is a resident at Sea Dunes Townhouses and has experience as a local contractor and business person.
  - David Morton, who serves as the Town of Nags Head's Chief Building Inspector, was appointed to the Board of Adjustment.
  - Tom Heffner was appointed to the Recreation Committee.

**5. TEXT AMENDMENT:**

**a. Section 42-250(c)(34), Vehicle Rentals.** Planner Heard addressed the Board, noting that when the agenda order is set, typically, the more project-oriented requests are reviewed first and then text amendments and such second. In this case, the applicant has a time constraint and the matter is being addressed at this point for accommodation.

The Planner recalled the Board has heard a similar request from the same applicant at its June meeting, a draft text amendment relating to the rental of jeeps. At that time, a number of issues and concerns were noted. Instead of moving forward to the Council with the Board's recommendation of disapproval, the applicant chose to take a step back and put some

thought into the reasons why the Board had expressed concerns about the original proposal. The applicant has worked with Attorney John Gaw on development of a revised proposal which is intended to address many of the Board's concerns. He is asking the Planning Board to reconsider the request in light of the new standards and conditions being proposed. Highlights of the changes were noted:

- Retitled as "vehicle rentals," not limited to only jeeps, but the rental of all types of vehicles.
- Rental vehicles shall be parked in approved spaces at a location.
- Only parking spaces in excess of the minimum required at a location may be used for rental vehicles parking.
- Only approved repair and service centers can repair and maintain the rental vehicles (i.e., Beach Ready Auto). The applicant can wash the rental vehicles but not do oil changes or other vehicular repairs on the property.

Staff's memorandum of July 11, 2013 details the Planner's review and is entered into this record:

#### **Proposal**

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

"(34) Vehicle rentals, ancillary to an existing, approved commercial use, subject to the following conditions:

- a. All rental vehicles must be properly parked within approved parking areas on the site as designated by the site plan of the town.
- b. Only parking spaces in excess of the minimum required can be used to park rental vehicles.
- c. Rental vehicle repair and/or maintenance shall not be performed on site unless performed pursuant to the approved primary use on the site.
- d. The vehicle bringing the rental vehicle lessee to the site must be removed from the site during the rental term.
- e. Not more than seven (7) rental vehicles may be simultaneously parked on the site."

#### **Prior Proposal**

At the meeting of the Planning Board on June 13<sup>th</sup>, the applicant presented a proposal to allow "jeep rentals" as a conditional use in the Beach Commercial (BC-1) zoning district, subject to the following conditions:

- a. Jeep rentals are only permitted as a secondary or accessory use to a primary commercial use on the subject property.
- b. No more than seven (7) rental jeeps can be on the property at any time.
- c. The rental jeeps cannot be high occupancy vehicles (more than 8 seats).
- d. Renters will not be permitted to leave their personal vehicles on the premises during the period of rental.

The Planning Board voted unanimously (5-0) to recommend denial of this proposed text amendment.

Rather than proceeding on to Town Council with the prior proposal, the applicant chose to make several changes to the proposal and prepare a revised text amendment. As staff deemed the changes to be significant and noted that the changes address at least one of the Board's most significant concerns, the revised proposal is being brought back for further consideration by the Planning Board.

#### **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**

The revised text amendment proposal addresses the following concerns discussed at the Planning Board's June 13<sup>th</sup> meeting:

- The vehicle rental would not be limited to jeeps, but allowed for all types of vehicles.
- All rental vehicles must be correctly parked within approved parking spaces on site.
- Only parking spaces in excess of the minimum required can be used to park rental vehicles.
- Only approved repair and service centers can repair and maintain rental vehicles on site.

While searching for similar ordinances, most of the standards I was able to find 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 area where vehicles are located
- Lighting

#### Vehicle Rental Requirements - Other Local Communities:

##### Manteo:

No specific requirements.

##### Nags Head:

No specific requirements.

##### Kill Devil Hills:

No specific requirements.

##### Southern Shores:

No specific requirements.

##### Duck:

No specific requirements.

##### Dare County:

Permitted use where allowed. 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.

#### Previous Request for Vehicle Rental Use - Beach Ready Auto Repair

NOTE: This section outlines a recent decision concerning a vehicle rental business proposed as part of an expansion project at Beach Ready Auto Repair. It is important to note that the decision outlined below was for a specific proposal at a specific site, not a text amendment that would apply to all properties in the BC-1 zoning district.

At its meeting on February 4, 2013, the Kitty Hawk Town Council considered a proposal from Beach Ready Auto Repair to add vehicle rentals as part of a proposed expansion project at 500 Sand Dune Drive. Although the Council members voted unanimously to approve a conditional use permit to expand the existing motor vehicle repair and service business, they specifically added a condition that a vehicle rental operation is not permitted.

The Town Council members mentioned the following concerns as rationale for denying the proposed vehicle rental operation:

- Vehicle rental is not an accessory use to a vehicle repair business.
- The applicant did not define a limit on the number of rental vehicles.

- The rental operation could potentially cause problems with the amount of parking on the site.
- If approved, it would be difficult to enforce a limit on number of vehicles.

**Consistency w/ Land Use Plan**

The Town's adopted CAMA Land Use Plan does not, specifically or generally, address the issue 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.

Planner Heard indicated to Fagan that the four items mentioned earlier are the main differences between the original proposal and the current text amendment proposal. At the last review, the primary concern expressed by Attorney Michael dealt with limiting the proposed use to just jeeps. This restriction has been eliminated and removes a potential legal issue.

Present were Attorney John Gaw, representing the applicant, and Gene Martin, the applicant and owner of Kitty Hawk Car Wash.

Attorney Gaw stated Planner Heard has done a good job in describing the goal of the applicant's second amendment in order to address concerns expressed with the original text amendment, especially the appropriateness to address the use of the term "jeep." The applicant also wanted to include standards which would limit the use, making it an ancillary use to an existing, approved primary use. Care was also given to creating standards for the proposed use which would not conflict with current standards relating to the car wash use, thus the parking restrictions being recommended. Another important issue preventing the business site from appearing too intensely used and congested is a requirement that the person renting a vehicle cannot leave their personal car on site while using the rental vehicle. Also, limiting the rental use to a total of seven vehicles keeps said use in the intent and purpose of being the secondary use and not the primary use of the property.

In opening the floor for questions, Chairman Northen posed the situation of a future request increasing parking in order to accommodate rental vehicles, and the Planner responded that if the property would have room for the additional parking and meet Town standards, the applicant could submit a revised site plan for review and approval. As for other requests, this would be a conditional use, so the approval of the concept would require going before the Planning Board and the Council in order to establish a vehicle rental use.

VC Garriss commended Martin for how well the Kitty Hawk Car Wash operates and its excellent staff. Although generally in support of the proposed changes, he noted a concern with the size of the property and potential issues with increasing traffic flow, recognizing how the ingress/egress with U.S. Highway 158 is already congested and sometimes dangerous. He agreed with the amendment removing the use of jeeps only. However, due to his concerns with the proposal, VC Garriss stated he is not in favor of the proposal as presented. Martin offered the hours of operation for the rental pick up and drop off could be scheduled for when the car wash hours are not occurring, noting he also does not want the congestion to take place as he

has already dealt with situations where 20 cars may arrive at one time for going through the car wash procedure. The car wash opens at 9:00 a.m., except for July and August (when it opens at 8:30 a.m.) and closes at 6:00 p.m. Even if a customer were running late for pick up in the morning, it would not conflict with the busiest hours of operation when a wash rush typically happens. Martin assured his operation would maintain adhering to the rental timeframe if the use is approved, adding he does not see any issue which would keep him from doing so.

Pruitt commented he has the same concerns as previously expressed by the Town Council during the Beach Ready Auto application, particularly merging a vehicle rental business with another business as it could be too much for one business to handle. Though other proposed locations would also be a conditional use considered on a case-by-case review, the proposed amendment could potentially overload the area.

McClean indicated she has reservations about the proposed use, dealing with the access and traffic flow. Regarding the language addressing the limitation of only seven vehicles being parked at the site, she posed there may be a loop hole if a future owner of the car wash might attempt to rent out fourteen vehicles but keep no more than seven rental vehicles parked on the property at one time. Martin stated DMV records would show how many rental vehicles the car wash business owns. If the rental use is approved, he would probably only start off with two or three rentals. The restriction limiting the number of rental vehicles is to offer the Town a way to help keep the rental use as an ancillary use.

Martin further explained why he is proposing the rental use for his business, describing first how he already washes jeeps and recreational vehicles for local businesses which rent out the same. The hardest work with the rental vehicles would be keeping them clean from sand and dirt, and the mechanical and other maintenance, such as oil changes, would be easy and done off site. Martin offered that adding a rental service to his car wash business seems to be a natural fit and would also help him personally with making a decent living, possibly even being able to hire a few more employees and provide local employment.

In response to McClean inquiring about expanded hours, Martin posed the rental use could open around 7:30 a.m. for either pick up or drop off, or adding an hour in the morning and at the end of the day for rental activity, supported by limited staff. Because of weather conditions, particularly during winter months, Martin added that if the business were to have as many as seven rental vehicles, they would probably not actually be parked at the subject location to prevent being beaten by nor'easter weather, and what would most likely occur is the availability of one or two vehicles. Surplus rental vehicles would be kept under cover at his property in Corolla. Comments were made by Martin describing how the overall appearance and condition of the property has improved and is being maintained since his purchase of the business.

The Chair inquired about what would occur with the rental vehicles during the car wash hours, and Martin indicated he is a man of his word and that no rental would be entered into outside the designated hours assigned to the rental use. Unrented vehicles would be moved to the back of the business. The procedure for securing a rental vehicle is to be done by reservation only, typically online.

Discussion then recognized the issue that if the proposed use is approved it would be permitted for any BC-1 zoned property.

Fagan asked about the owner anticipating any conflict with internal traffic patterns. Martin stated he follows a set traffic flow model and that it works very smoothly even though the

property is tight, that he does not desire to increase the traffic flow and such is why the rental use would have restricted hours. An invitation was given to Board members to go watch the activity and see how it is managed. Martin indicated to Fagan he does not see any traffic from the rental activity contributing to congestion with traffic flow when following the proposed restricted rental hours and operating the car wash only within its timeframe. With the online reservation system, it would be known how many rental vehicles to have located at the subject site and be ready at the property for pick up, with excess rentals being kept off site. If such would be helpful for approval, Martin indicated, said items could be incorporated into the proposed text.

In response to the Board's input and statements, Attorney Gaw reminded the Board the proposed use would be a conditional use that would require a conditional use permit, and reviews would be associated with site plan amendments giving the Town control and an opportunity for examining traffic patterns at a location and applicants would be able to demonstrate how the ancillary activity would occur. Gaw then pointed out an ancillary activity contemplates an activity which has some common nexus with the primary activity on a site, and in this subject case, staff is available to assist with the rental activity and deal with traffic flow. It was hoped by the applicant's attorney that the Board not focus entirely upon the actual business activity and but look also at the land use and how the activity could be conducted on a site within a BC-1 zone. The proposed activity, Gaw offered, would be less intense than already approved uses in the BC-1 zone which create more noise and have a greater visual impact.

With the conditional use permit, concerns can be addressed as part of the approval process. Attorney Gaw stated the applicant has addressed for the Town's benefit the concerns with land use planning issues. Regarding the business issues, the applicant would have to deal with such, and he is attempting to find a way he can use an existing property and realize some additional income during this time as the local economy is hurting and many businesses are examining ways to make extra income.

Directing his comments to Attorney Gaw, the Chair said if the Board recommended approval for the proposed use, the primary concern is with opening the entire BC-1 zone to potential of rental ancillary uses for any property having the ability to meet the basic conditions. As a personal thought, Chairman Northen wished there was some way to tie the proposal to the specific application site without opening the proposed use to the entire BC-1 district.

Explaining his concern with traffic flow, Fagan recalled one commercial property having a grocery store, gas station, and car wash all working together and recognized how that type of internal traffic flow is what is pictured in his mind. Fagan had indicated he was absent at the meeting which conducted the original review, and with reviewing the minutes of that meeting and in hearing these comments by Board members, appreciation is being given to eliminating the unsettled picture in his mind. With Fagan referring back to the point regarding the time restriction of the different activities, he said it seems as though there would be two activities occurring at separate time frames, and Martin affirmed that if the proposed use were approved, the rental activity would occur prior to and after the hours of the car wash activity.

McClean directed attention to the last page of the current amendment, noting the restriction that vehicles may not be high occupancy is omitted. Martin stated he would be happy to put said language back into the proposed text. McClean indicated that would relieve her concern. Martin explained he is not looking to rent vans or anything other than four-door vehicles, as was stated in the first application, adding that larger vehicles do not fit into his business plan.

Hearing no other comments or questions, the floor was opened for a recommendation. **VC Garriss moved to recommend denial of the proposed text amendment allowing vehicle rentals as a conditionally permitted use in the Beach Commercial (BC-1) zoning district.** With the vote taken, **the motion carried 4 to 1, with Fagan casting the dissenting vote.**

## **6. ZONING AMENDMENT:**

**a. 108 Ascension Drive – Beach Commercial (BC-1) to Beach Residential (BR-1).** Planner Heard reported Town staff has begun working with Dare County on a project that will take many months to develop: adding zoning maps as a layer on the County's public GIS system (computer mapping) for property information. When initially working on the project, a good number of properties were identified as having split zoning, where the zoning line does not match up with the property line.

The Planner pointed out it is important for the Town of Kitty Hawk, property owners and persons who are looking at development or otherwise identifying properties (i.e., realtors and appraisers) to have a clear reference with zoning lines. There is great value in having the boundaries match up with property lines whenever possible. Staff is, therefore, undertaking this effort to examine situations where the lines do not correlate, and contact is being made with the property owners. After weighing how to present the zoning amendments, it has been determined the Town should review each amendment individually instead of blanket approval for multiple areas due to the diversity of the individual properties.

Heard noted last month's day care center application, initiated by the property owner, has already dealt with one of these situations. This agenda item is the first zoning amendment which is being presented by Town staff. Future amendments will be presented as property owners are contacted and a determination is made concerning which zoning district to apply. He added there would be no cost to the property owner with the Town bringing the rezoning request. All other procedures (such as adjoining property owner notification) would still be followed as with any rezoning application.

In recent months, the commercial zoning created a significant problem for the property at 108 Ascension Drive. Heard explained the problem showed itself when the property owner was attempting to sell the property, whereby the title company had concerns about the potential for a buffer requirement making the property undevelopable. Said confusion cost the property owner the sale, although, subsequently, the property is again under contract.

The Planner summarized his staff memorandum of review, dated July 11, 2013, which is entered into this record:

Property Owner: Decharmarnel, Inc.  
 Property Address: 108 Ascension Drive  
 Parcel ID Number: 987512861477  
 Current Zoning: Beach Residential (BR-1)/Beach Commercial (BC-1)  
 Proposed Zoning: Beach Residential (BR-1)

### **Proposal**

A portion of the subject property is proposed to be rezoned from Beach Commercial (BC-1) to Beach Residential (BR-1) in order to limit the development of this property to single-family residential and associated uses in the future.

NOTE: This rezoning proposal is part of a larger effort by the Town of Kitty Hawk to clarify the zoning map by matching zoning district boundaries to existing property lines with the approval of the affected property owners. In this case, the property owner did not submit an application to have the property rezoned

but is aware of the Town's interest in having the zoning district match up with the property line, has discussed the matter thoroughly with the Planning Director, and expressed his support for the proposed zoning amendment to the Beach Residential (BR-1) district. The property owner and all surrounding property owners are notified of the proposal just like a traditional rezoning application.

### **Background Information**

The subject property is 17,592 square feet (0.40 acres) in size and presently undeveloped. With approximately 80 feet of street frontage, the property is a conforming lot that will easily accommodate the development of a single-family residence. The subject property is presently split-zoned by a zoning line that travels diagonally through the property (shown on the attached plat). A majority (approximately 60%) of the property is zoned Beach Commercial (BC-1). The remainder of the property is zoned Beach Residential (BR-1).

The two properties adjacent to the north front on Harbour Bay Drive and are zoned Beach Residential (BR-1). One of these parcels contains a single-family residence and the other contains the community amenities (basketball court, playground equipment, etc.) for the Harbour Bay neighborhood. The adjoining property to the west is zoned Beach Residential (BR-1) and contains a single-family residence. The abutting property to the east is zoned Beach Commercial (BC-1) and is presently undeveloped. Two properties are located to the south across Ascension Drive. One of these parcels (to the west) is zoned Beach Residential (BR-1) and contains a single-family residence. The other parcel (to the east) is zoned Beach Commercial (BC-1) and is presently undeveloped.

### **Staff Analysis**

**Current Zoning:** Beach Commercial (BC-1). The BC-1 district allows a variety of residential, institutional, office, and commercial uses. The intent of the BC-1 district is to provide for the commercial needs of the neighborhood and immediate surrounding geographical area. The commercial development will be characterized by small to medium size land parcels with commercial development of low intensity. The BC-1 district is not intended to be developed for shopping centers, shopping malls, or big box retail/wholesale businesses. The attached section of the Zoning Ordinance outlines the permitted uses and development standards for the BC-1 district.

**Proposed Zoning:** Beach Residential (BR-1). The BR-1 district allows mainly single-family residential uses. Accessory uses are permitted and a few limited institutional uses are also permitted as conditional uses. The intent of the BR-1 district is to encourage the development of low density residential neighborhoods in Kitty Hawk. The attached section of the Zoning Ordinance outlines the permitted uses and development standards for the BR-1 district.

**Proposed Development:** The property owner will shortly be seeking a building permit to construct a single-family residence on the subject property.

### **Land Use Plan**

The Town's adopted land use plan is an important document to consider as it is intended to help guide the pattern and standards of development in the Town. While consistency with the plan is certainly desirable, it is important to note that approval of a rezoning request is not legally required to be consistent with the Town's adopted land use plan if Town Council decides that other factors justify the need for a zoning change.

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the subject property as a **Lower Density Residential Area** and provides the following description for this classification:

"Residential areas should provide for the low-density development of single-family detached dwellings in an environment which preserves natural features to the extent possible and promotes stable, permanent neighborhoods."

As part of its review, the Planning Board is asked to determine the consistency of this zoning amendment proposal with the adopted CAMA land use plan.

### **Planning Board Action**

The Planning Board has been asked to provide the Town Council with a recommendation regarding the proposed zoning amendment for the subject property at 108 Ascension Drive.

Should the Board decide to recommend **APPROVAL** of the proposed rezoning, the motion could be worded in the following manner:

**"I recommend approval of the application to rezone the entire property at 108 Ascension Drive to Beach Residential (BR-1). The Board has found this proposal to be consistent with the Future Land Use**

**Map and policies of the Town's adopted land use plan."**

Additional justification for the recommendation can also be added.

Should the Board decide to recommend **DENIAL** of the proposed rezoning, the motion could be worded in the following manner:

**"I recommend denial of the application to rezone the property at 108 Ascension Drive to Beach Residential (BR-1). Although consistent with the Future Land Use Map in the Town's adopted land use plan, the Board has found that [INSERT JUSTIFICATION HERE]."**

**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 350 feet west on Ascension Drive. The subject property is a wooded lot located on the right, just prior to the first residence on Ascension Drive.

The Planner displayed and briefly reviewed:

- a plat of the subject property that showed the current zoning line running through the property,
- a zoning map showing the subject property and the surrounding area, and
- a copy of the Town's Future Land Use Map from the adopted land use plan.

When the Chair inquired about including for rezoning the adjacent BC-1 commercial lot immediately to the south, the Planner said the intent of the project is to address properties with split zoning, where the zoning line does not correlate with the property line. When the project was approved by the Town Manager and Council, staff did not present dealing with other zoning issues that may or may not need to be addressed in the future. The current effort is being limited to clarifying split-zoned properties or areas where the zoning does not match with property lines. As to whether or not the subject area is a situation the Town may need to consider in the future, Planner Heard indicated to Chairman Northen that as the Town looks at its adopted CAMA Land Use Plan or in situations where implementing the LUP, there may be circumstances that present themselves where rezoning of properties should be considered.

**Fagan moved to recommend approval of the application to rezone the entire property at 108 Ascension Drive to Beach Residential (BR-1), noting the Board has found this proposal to be consistent with the Future Land Use Map and policies of the Town's adopted land use plan." Vote was unanimous, 5-0.**

**7. COMMENTS:**

- a. **Chairman Northen.** The Chair stated he had nothing to bring before the Board.
- b. **Planning Board Members.** No other comments were made by the Board members.
- c. **Town Attorney.** Nothing was addressed by the Attorney.
- d. **Planning Director.** No other items were brought forward by the Planner.

**8. PUBLIC COMMENT**

**Agenda Item Relating to Proposed Vehicle Rental - Attorney Gaw.** Attorney Gaw spoke to the Board's concern about the proposed vehicle rental use being done throughout a zoning district, posing that perhaps the proposed use be ancillary only to a car wash use and done under a conditional use permit. Planner Heard indicated such an associated use could address the

Board's concern, and if that condition were added, it might be the only property in Kitty Hawk where the proposed use would apply. Other issues were also expressed as concerns, but as far as opening the proposed use to be permitted in the entire district, requiring the vehicle rental use to be associated with a car wash use may ease a potential dilemma.

Attorney Michael explained the Planning Board could recommend limiting an ancillary use or secondary use to an identified primary use, and usually, the ancillary use is associated to the primary use. Reference was made to the recently denied application by Beach Auto Ready which sought approval for a vehicle rental use, that Council felt the vehicle rental use was not an accessory use to the primary business.

Conditional zoning, if it could have been applied, would have provided an alternative planning tool by which to zone specifically for the subject request, limiting the proposed use only to the subject site.

McClellan inquired if the car wash is a permitted use or a conditional use, and Heard cited from the Town Code it is a conditional use. If the proposed vehicle rental business would be approved, it would add a second conditional use on the property.

Fagan explained he voted the way he did because he understood the two uses would have operated separately, being different than the original proposal where they would operate simultaneously.

Noting the Board has voted, which is only a recommendation, the Chair added that any alternatives could be presented to the Council as it moves forward. Attorney Gaw then commented he wanted further input on said concern, posing he may have thought of a solution and could amend the applicant's draft proposal.

## **9. ADJOURN**

With no other items, **the Chair declared the meeting adjourned at approximately 6:54 p.m.**

A handwritten signature in dark ink, appearing to read "Oscar Northen", is written over a horizontal line.

Oscar Northen, Chairman

Attachments: None

Minutes Transcribed and Respectfully Submitted By: Betty Moore Williams