Kitty Hawk Planning Board
Meeting Minutes
January 14, 2016 – 6:00pm
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
   a. December 17, 2015
4. Administrative Report:
   a. Town Council Action from January 4,2016 Meeting
5. Text Amendment:
   a. Mobile Homes
6. Conditional Use Permit:
   a. Fitness Center – 500 Sand Dune Drive
7. Comments:
   a. Chairman Richeson
   b. Planning Board Members
   c. Town Attorney
   d. Planning Director
8. Public Comment
9. Adjourn

1. **CALL TO ORDER/ATTENDANCE:** Chairman Richeson called the meeting of the Kitty Hawk Planning Board to order at 6:00pm on Thursday, January 14, 2016

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

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

2. **AGENDA:** Chairman Richeson requested of the Board, due to the fact that the Applicant was in attendance for the Conditional Use Permit: Fitness Center. and in the event of an extended discussion on #6, Text Amendment for Mobile Homes, if the Board would agree to discuss the Conditional Use Permit for the Fitness Center first and then have the discussion on the Text Amendment. Mr. Parker made a motion to that effect and the Board unamiously agreed.

3. **APPROVAL OF MINUTES – DECEMBER 17, 2015:** Mr. Richeson asked for any comments/discussion of the minutes and Mr. Michael brought to the attention of the Board on page #12, under d. third bullet point, beginning with "It was also stated....if should read the **owners** would be responsible for fixing it." Mr. Testerman will make the correction. With that Mr. Richeson, hearing no further changes/comments to the December 17, 2015 minutes, declared the Minutes approved with the change and was unanimously approved.

4. **ADMINISTRATIVE REPORT: TOWN COUNCIL ACTION – JANUARY 4, 2016.**
   - Mr.Testerman indicated that the Town Council approved the Site Plan Amendment for East Coast Game Rooms with the requirement to have the metal building treated with a non-metal façade.
   - Mr. Testerman stated that when the original ordinance was put in place, several prior members of the Board, now on the Council, said that the intent was that any visible building(s) along the Bypass would require that the Planning Board approve the non-metal façade and that the Applicant has been made aware of the Council's requirement and once the Applicant decides on the façade material, the proposed change will go to the Planning Director for review and then to the Board for further discussion/approval.
   - The Council approved the shared parking agreement for Art's Place.
   - The Council tabled a decision on the medical offices and denied the Conditional Zoning Text Amendment.
   - Council also scheduled Public Hearings for: The conditional use permit at the Shoreside Shopping Center treatment plant, Wendy's shared parking, and vehicle rental in BC-2 text amendment and conditional use permit.

5. **CONDITIONAL USE PERMIT: FITNESS CENTER, 500 SAND DUNE DRIVE**

(Prior to Mr. Testerman's input, he projected on the screen the aerial image of the subject parcel. He also indicated that a 'revised' Staff Report was distributed to the Members due to a few typos that needed to be corrected.

PROPOSAL

The Applicant is requesting approval of a Conditional Use Permit to locate a fitness center at 500 Sand Dune Drive in the existing building on the subject property. Fitness Centers are permitted in the BC-2 district with a Conditional Use Permit, provided that:

a) No promotional sales of services shall be visible from the outside of the building.
b) The building shall be designed so that any noise will be contained within the building.
c) All lighting shall meet Section 42-515.
d) Any outdoor uses or facilities shall be set back or buffered so that no noise will go beyond the property.
e) Massage personnel shall be licensed by the State.

- The Applicant is proposing a personal training facility that would dedicate approximately 1,250 square feet to be a training area that will be used for strength training equipment, including machines, free weights and open space.
- The Applicant states that training is frequently done one-on-one and occasionally up to four (4) clients to be trained at the same time. The business will see its peak usage in the morning hours prior to clients going to work and some usage in the early afternoon is anticipated as well.

BACKGROUND INFORMATION

- The subject property is presently zoned Beach Commercial (BC-2) and is a multi-tenant commercial use. The property has approximately 180 feet of frontage on Sand Dune Drive and 175 feet of frontage on Worthington Lane. In total, the lot is 74,680.8 square feet (1.72 acre) in area.
- Directly abutting the subject property to the east are four (4) properties, all zoned BC-2 and include the former Pizzazz Pizza, a mixed use (commercial/residential) building and R.E. Michel. To the west of the subject property are two(2) parcels that are part of the multi-family residential development, Sandpiper Cay, both zoned BR-2. Across Worthington Lane to the north are single family residences zoned BR-1 and across Sand Dune Drive to the south are additional units in the Sandpiper Cay multi-family development.

LOT AREA: The subject parcel is 74,680.8 square feet (1.72 acre).

LOT COVERAGE: No lot coverage changes are proposed. The current lot coverage (including the proposed buildings, sidewalks, parking, access drives, and drive aisles) is 42,514 square feet (57%). The proposal is compliant with the maximum lot coverage requirement of 60% for the BC-2 district.

BUILDING HEIGHT: The maximum height in the BC-2 district is thirty-five feet (35') from the existing grade to the peak of the roof. No building height changes are proposed and the current building is compliant.

BUILDING SETBACKS: It appears that all of the buildings will comply with the Town's current minimum building setback standards for the BC-2 district.

Setback	Existing	Required
Front	72 feet	15 feet
Rear	55 feet	20 feet
Sides	25 feet (north)	10 feet
	50 feet (south)	10 feet

ACCESS: The subject property currently contains one 22 foot wide ingress/egress drive off of Sand Dune Drive and a second 22 foot wide ingress/egress drive off of Worthington Lane. No changes are proposed for the access to the property.

PARKING: The parking lot for the development was approved and built considering the entire building under the retail requirements of 1 space per 350 square feet and 1 space per 2 employees; a total of 72 spaces required onsite. For the proposed use parking requirements are as follows:

Parking Calculations	Ratio	#Required Spaces
Fitness Center – 1 space Per 150 sq. of gross Floor area	1250 sq.ft/150	8.3 (rounded to 9)

NOTE: Mr. Testerman stated that in discussion with the Applicant, there would be four (4) plus the Applicant at most utilizing the spaces so actually usage would not reach the full nine (9) spaces.

As discussed at the December, 2015 Board Meeting, the site currently required three (3) ADA parking spaces and currently there are two (2) ADA spaces onsite.

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

WASTE MANAGEMENT: The property is currently served by two (2) bulk containers; one located at the northern end and one at the southern end of the property.

LIGHTING: Currently there are no lighting changes proposed to the current exterior lighting. Should that change in the future, a lighting plan must be submitted and approved by the Planning & Inspections Department and must comply with the standards of Section 42-515 of the Zoning Ordinance.

SIGNS: Any signs designated to go onsite will need to be submitted to the Planning & Inspections Department and a sign permit will be required.

STORMWATER MANAGEMENT: No land disturbance is occurring as the site is using all existing features.

FLOOD ZONE: The entire subject property is located within an X flood zone which means that the building is not required to meet any particular flood elevations.

LAND USE PLAN: The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the property as a "Commercial, Shopping and Working Area" on the future land use map.

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

POLICY 4a: Kitty Hawk, through its zoning ordinance, will continue to direct the placement of commercial development in areas zoned for such activities.
POLICY 4e: Kitty Hawk will review and analyze development and redevelopment proposals for consistency with the future land use map included in this land use plan.
OBJECTIVE 16a: Monitor and consider redevelopment proposals for consistency with stated Town Land use and development goals.
CONDITIONAL USE FINDINGS: Per the standards of Section 42-99(b)(7), in order to approve this application, the Town Council must make findings that the proposed conditional uses:

a. Does not materially endanger the public health or safety.
- There is no evidence to suggest that allowing the use of this building for a fitness center would endanger public health or safety.

b. Does meet all required conditions and specifications.
- The existing building was constructed to meet all conditions and specifications, the new proposal includes no changes and will also meet all requirements.

c. Will not substantially injure the value of adjoining property or be a public nuisance, and
- There is no evidence to suggest that the proposed use would injure the value of adjoining property or be a public nuisance.

d. Will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.
- The reuse is compatible with the surrounding zoning and commercial land uses.
- Per stated policies in the Town's adopted land use plan, the reuse of this business will be located on existing, commercially zoned properties.

- Mr. Testerman then indicated to the Board that the Applicant was in attendance and if any Member of Board had any questions for the Applicant. The Board had no specific question(s) for the Applicant but did address the ADA parking issue.
- Mr. Geraghty wanted clarification regarding the third ADA parking space as being one of the conditions that needed to be added to the proposal and Mr. Michael agreed.
- Mr.Tillett asked if the amount of parking 1 space/350 sf. Was being underutilized and Mr. Testerman stated that there is a mix of people that use the lot and most of the lot is vacant and that there is an auto mechanic which does not fall into the retail nor office parking requirements.
- Mr. Tillett asked if a parking study had been done as he felt that the entire area was 'under parked." Mr. Testerman stated that he was at the site on January 14, 2016 and it doesn't appear that the lot is overly crowded and it could be because currently there are some vacant offices, but if the vacant offices fill up there would be a possibility that the parking situation would be reviewed, but there is no room on site for parking expansion.
- Hearing no further comments/questions from the Board, Mr. Richeson asked for a Member of the Board to make a recommendation and Mr. Geraghty made the following:

"I recommend approval of the Conditional Use Permit for the establishment of a fitness center located at 500 Sand Dune Drive subject to the addition of third ADA parking space to be added. The Board has found this proposal to be consistent with the Town's adopted land use plan."

- Mr. Richeson asked for a second and Mr. Parker seconded and the motion was passed unanimously.

6. TEXT AMENDMENT: Mobile Homes

- Mr. Testerman indicated that the intent of this Text Amendment is to clear up wording inconsistencies of the ordinance.

PROPOSAL: The proposed Text Amendments would change the existing zoning ordinance as follows:

42-274(b) Permitted Uses:

(4) ~~Mobile homes; provided that:~~

~~a. Skirting shall be placed under all mobile homes brought into the Town:~~

~~1. When a mobile home is placed on pilings, acceptable skirting can include lattice or one inch by four inch (one space with a slat and one space without) completely enclosing the underneath with the exception of access doors, parking areas, vents, or other openings required by the Town or State building codes.~~

~~2. Other acceptable foundations or skirting also include brick, cinderblock and/or other similar decorative features.~~

~~3. Skirting shall hide the chasis of the mobile home.~~

~~4. All skirting shall be constructed within 30 days of occupancy.~~

~~b. Mobile homes shall be placed on the lot parallel to the adjacent road whenever possible.~~

~~c. The tongue, transporting lights and removable towing apparatus must be removed after placement on the lot and before final occupancy.~~

~~d. Mobile homes shall not be used as a storage facility.~~

~~e. Permanent living quarters or additions shall not be constructed to adjoin any newly installed mobile homes with the exception of decks and/or screened porches. Existing mobile homes in the Town prior to the adoption date of the ordinance frm which this chapter is derived shallbe allowed to have additions that adjoin their trailer. (The building code allows additions; however, they must be freestanding.)~~

~~f. Tow or more singlewide mobile homes shall not be connected together as one dwelling nor may a mobile home be attached to any accessory dwelling with the exception of a garage or a carport. (The building code allows two units.)~~

~~g. The exterior siding must consist of wood, hardboard, vinyl or aluminum.~~

~~h. Mobile homes shall be occupied as single-family dwelling only. Home occupations may be permitted pursuant to this chapter.~~

~~i. Only those mobile homes constructed after July 13, 1994, (wind zone II) can be installed in the Town and only if those mobile homes are being relocated from another location within the county.~~

~~All new mobile homes that are brought into the Town from outside the county must be HUD approved, wind zone III structures.~~

BACKGROUND INFORMATION:

- Due to some inconsistencies in the ordinance, this issue was brought to Mr. Testerman's attention for review and to 'clean up' some of those inconsistencies.
- Currently, mobile homes are permitted use in the VR-2 and VR-3 districts. Also, there is a mobile home park ordinance which has a subsection that says, 'all mobile homes and travel trailers will be either in a mobile home park or a travel trailer park.'
- Mr. Testerman also stated that there is inconsistency between 42-616 which says, 'all mobile homes have to be in a mobile home park and 42-274 allows mobile homes as permitted use by right in the VR-2 district and currently 42-275 which allows, as a permitted use by right in the VR-3 district.
- The proposal is to take that out of the VR-2 district, leaving mobile homes as a permitted use by right in the VR-3 district and that would not change.
- 42-616 would be revised as follows:
  (a) All ~~mobile homes~~, trailers and campers shall hereafter be located for occupancy in a ~~mobile home park~~ or trailer park only as provided for in this chapter. As you can see, the ~~mobile home~~ reference was crossed out in 616 (a) and a new 616 (b) was added that states, "All mobile homes shall hereafter be located for occupancy in a mobile home park only as provided for in this chapter or as provided for by Section 42-275(b)5" which refers back to VR-3.
- Mr. Testerman referred to the zoning map on the screen indicating that the VR-2 district was in red and the VR-3 district was green. The VR-2 district begins at the southside of West Kitty Hawk Road and extends down Poor Ridge Road and VR-3 is the on the north side of Kitty Hawk Road around the International Hostel and camp ground and extends north up to Twiford and encompasses the area with the travel trailer park that was reviewed by the Board less than a year ago with the Preserve.

STAFF ANALYSIS:

In 1987, North Carolina enacted G.S. 160-A-383.1 which limits local zoning provisions that affect manufactured housing and mobile homes. Under this statute, localities may regulate the location of manufactured or mobile homes but may not exclude these homes entirely from the zoning jurisdiction. As 42-275(b)5, which is VR-3, continues to allow placement of mobile homes as a permitted use in the VR-3 district, the Town's zoning ordinance would continue to be compliant with G.S. 160A-383.1.

- Mr. Richeson then asked the Board if there were any questions and Mr. Richeson asked if, currently, are there any mobile homes in the VR-2 district and Mr. Testerman stated that he was not aware of any, but could look into that.
- Mr. Richeson then asked if the Text Amendment was approved and if there are any existing mobile homes existing, if they become damaged or removed can the mobile home(s) be put back and would the existing be 'grandfathered?'

- Mr. Testerman replied that what is there now would become a legal nonconforming structure. He further stated that in section 42-129 it states 'that any legal, existing mobile home, if removed, can be replaced with another mobile home. But, if it is in the VR-2 district and gets taken out it would not be allowed to be replaced with another mobile home.'
- Mr. Richeson asked If the existing mobile home park off of Woods Road and Twiford a trailer or mobile home park?
- Mr. Testerman stated that it is an existing trailer park and they have applied to have a mobile home park for the second parcel, the application was denied, but in reality, it is a trailer park.
- Mr. Parker asked if in replacing the mobile home, could it be a manufactured home; one that is brought in and put together that is built with heat and air – would the Text Amendment state that the mobile home could be replaced with a manufactured home?
- Mr. Testerman stated that there are different definitions for manufactured homes and that in some codes, manufactured homes are now the post 1976 mobile homes but in some places the term/definition 'manufactured home' encompasses everything from mobile homes to doublewides to modular homes.
- Mr. Geraghty stated that manufactured homes (modular) have to meet all the building codes where a mobile homes does not? Mr. Michael stated that mobile homes also have standards that must be met and that there are different building codes for modular and manufactured homes.
- Mr. Richeson gave an example: 'could you take a mobile home and put it on pilings?' and Mr. Testerman stated that according to the Town's flood damage protection ordinance they would have to.
- Mr. Michael stated that one of the issues that surfaced was what they want to do with the mobile home park?
- Mr. Testerman stated the answer is that Kitty Hawk's Town Ordinance's definition of a mobile home is, 'a structure that consists of a single unit completely assembled at a factory designed so the total structure can be transported on its own chasis that is over 32 feet wide and over 8 feet wide and is designed to be used as a dwelling unit providing complete and independent living facility using provisions for sleeping, eating, cooking, living and sanitation and ' 5' states that it is actually being ready for use as a dwelling.'
- If a home fits into that definition, then it is defined as a mobile home.
- Mr. Richeson wanted to clearly state, that because a manufactured home is manufactured in modular or sections and is usually brought in by a tractor trailer and is not considered a mobile home under its own power?

- Mr. Testerman clarified that the definition for mobile home states 'consists of a single unit completely assembled at the factory' and therefore, a doublewide would be considered two units, not fitting the mobile home definition. Mr. Parker also interjected that some manufactured homes can also be two units.
- Mr. Rhoades interjected that a trailer has wheels, much like a Winnebago.
- Mr. Testerman stated that when the mobile home park application was reviewed a few months ago, it was tricky going back and forth between the definition of a recreational vehicle, travel trailer and mobile home in the way the Town's ordinance defines them. He also stated that a lot of people use the term 'trailer' interchangeably for a mobile home and according to the ordinance it is completely different and is more about what one would see in Charlie's RV Park in Kitty Hawk where the mobile homes are of a more permanent structure than a travel trailer.
- Mr. Rhoades stated that there needs to be a 'clear' definition regarding manufactured homes vs. the mobile homes. Mr. Testerman stated that he would put together something for the February Board meeting and Mr. Geraghty agreed.
- Mr. Richeson then asked the Board if they would like to 'table' this until the February meeting when Mr. Testerman would come back with a clearer definition after doing some research.
- Mr. Richeson then asked for a motion to table the Text Amendment on Mobile Homes until the February meeting and Mr. Rhoades made the motion. It was then brought to Mr. Richeson's attention that Mr. Rhoades, as an Alternate, could not make the motion and Mr. Parker then made the motion to table further discussion until the February Meeting where Mr. Richeson seconded and the vote was unanimous.

7. COMMENTS:

a. Chairman Richeson – thanked all members of the Board for their input and attendance.
b. Planning Board Members – Mr. Rhoades asked if he could get a copy of the codes as well as the CAMA map and Mr. Testerman said he would try to have it for the February Meeting.
c. Town Attorney – nothing to add
d. Planning Director – see above.

8. PUBLIC COMMENT: No public comments came forth.

9. ADJOURN: Hearing no further issues/questions from the Board, Mr. Richeson adjourned the meeting of the January 14, 2016 Planning Board Meeting at 6:33pm.

Respectfully submitted by Patricia Merski, Recording Secretary.

John Richeson

John Richeson, Chairman