

Kitty Hawk Planning Board Meeting
December 14, 2017 – 6:00pm
Kitty Hawk Municipal Building

AGENDA

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. October 26, 2017
4. Administrative Report:
 - a. Town Council Action from December 4, 2017 Meeting
5. Public Comment
6. Text Amendment:
 - a. 42-250(c)34. The Applicant is seeking a Text Amendment that multi-family dwellings in the BC-1 General Beach Commercial District.
7. Zoning Map Amendment:
 - a. 5113 & 5117 Putter Lane. The Applicant is requesting a Zoning Map Amendment to rezone the listed parcels from BR-1 Beach Residential to MS-1 Emergency and Governmental Services District.
8. Comments:
 - a. Chairman Richeson
 - b. Planning Board Members
 - c. Town Attorney
 - d. Planning Director
9. Adjourn

1. **Call to Order/Attendance:**

In the absence of Chairman Richeson, Vice-Chair Parker called the Kitty Hawk Planning Board Meeting to order at approximately 6:00pm on Thursday, December 14, 2017.

Board Members Present: Vice-Chairman Parker; Chuck Heath, Member; James Geraghty, Member; Jan Collins, Alternate; Gary Muir, Alternate.

Absent:

Chairman Richeson; Member, Dusty Rhoads.

Staff Present:

Robert Testerman, Director, Planning & Inspections; Casey Varnell, Town Attorney; Patricia Merski, Recording Secretary.

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-2-

Voting:

Due to the absence of Chairman Richeson and Member Mr. Rhoads, Alternates Ms. Collins and Mr. Muir would participate in the voting for the December 14, 2017 Meeting.

2. **Approval of Agenda:**
Hearing no objections/changes/corrections to the December 14, 2017 presented Agenda, the Agenda was approved unanimously.
3. **Approval of Minutes:** October 26, 2017
Hearing no objections/changes/corrections to the October 26, 2017 Minutes, the Minutes were approved with Vice-Chairman Parker making the motion to approve and Mr. Geraghty seconded and the Minutes were approved unanimously.
4. **Administrative Report: Town Council Action from the December 4, 2017 Meeting.**
Mr. Testerman stated that at the Town Council Meeting of December 4, 2017, there was a Public Hearing on the accessory dwelling units. The Council had a few concerns which warranted that this action go back to the Planning Board for further review. Mr. Testerman will put this on the next Planning Board Meeting Agenda.
5. **Public Comment:**
Mr. Parker asked if anyone from the audience had any questions/concerns to come to the podium and state their name. Finding no one coming forth, the Public Comment portion of the Meeting was closed.
6. **Text Amendment: 42-250(c)34 – Multi-family Dwellings:**
Proposal: The Applicant has proposed a Text Amendment that would add multi-family dwellings as a Conditional Use in the BC-1 (General Beach Commercial) District.

Background:

Currently in the BC-1 District, the Kitty Hawk Zoning Ordinance permits apartments on the second story of compatible commercial uses, provided that applicable state building and fire codes are met and that one (1) parking space per bedroom be reserved for the occupants of the apartment, in addition to any other parking spaces that may be required. The current text also allows multi-family dwellings in the BR-2 and VR-3 districts. In the three (3) residential districts that allow multi-family dwellings, they are limited to a density of four (4) dwelling units per acre; this is achieved by the minimum lot size used for a multi-family dwelling. In these three (3) districts, the minimum lot size for a multi-family dwelling is: for each acre or portion thereof, a minimum lot size of 15,000 square feet for the first dwelling unit and a minimum lot size of 9,520 square feet for each additional dwelling unit. (15,000 + 9,520 + 9,520 = 43,450 square feet/one (1) acre.)

Setback requirements in the BC-1 district are as follows: 15 foot front yard setback; 20 foot rear yard setback and 10 foot side yard setbacks.

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-3-

In the districts that multi-family dwellings are currently permitted (BR-2, BR-3, VR-3) the setbacks are: 25 foot front and rear and a scale of 10 to 25 feet side yard setbacks, depending on the square footage of the dwelling. The language is silent on how side yard setbacks are calculated for multi-family dwellings. Additionally, the maximum permitted lot coverage in the BC-1 is 60%, whereas in the BR-2, BR-3 and VR-3, the maximum lot coverage permitted is 30%.

In the BC-1 district, where apartments over commercial uses are permitted as a conditional use, there is no specific maximum density listed in the ordinance. The minimum lot size in the BC-1 is 15,000 square feet and the maximum lot size is four (4) acres. Additionally, 'no use of an owner or tenant on the site shall exceed 25,000 square feet of building area.' Without a site plan example to use, Staff is unable to calculate an approximate maximum number of apartments that could potentially fit above a commercial use, as a number of factors would go into it. Factors would include septic area layout, lot coverage and setbacks.

The Applicant has requested that no specific density limitation be placed on multi-family dwellings in the BC-1 district, as there is not a specific density requirement for those permitted over commercial uses. Currently, the Zoning Ordinance allows single-family residential dwellings in the BC-1 as a conditional use, provided that they comply with the dimensional requirements (minimum lot size; minimum lot width; setbacks; maximum lot coverage; maximum height; parking requirements) of the BR-1 district.

Mr. Testerman stated that should the Board wish to recommend approval of allowing the use of multi-family dwellings in the BC-1 district, there are many other considerations that should be considered such as: to recommend a specific maximum density; should multi-family dwellings in the BC-1 adhere to BC-1 setback and lot coverage requirements or be bound to the same dimensional requirements as the BR-2, BR-3 and VR-3 or different dimensional requirements specific to the BC-1?

Mr. Testerman stated that he has provided the Board with a list of what the other towns on the Outer Banks have done regarding multi-family dwellings in commercial districts and provided attachments to the Board as follows:

- Duck – does not allow
- Southern Shores – Multi-family dwellings are permitted in the general commercial district according to the dimensional requirements of their RS-8 multi-family residential district. They do allow an extra 10% lot coverage for multi-family dwellings in the commercial district (40%) versus those in the RS-8 (30%).

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-4-

- Kill Devil Hills – Multi-family dwellings of three (3) or more units per dwelling are permitted in the commercial district at a density of 18 dwellings per acre. The RH, high density residential district, setbacks are applied.
- Nags Head – Multi-family dwellings are permitted as a conditional use, provided a number of conditions are met (copy attached).
- Manteo – Multi-family dwellings are permitted at a density of six (6) dwellings per buildable acre in their commercial district.
- Mr. Testerman then turned it over to the Board and stated that the Applicant and his representative were present.

- Mr. John DeLucia of Albemarle Associates approached the podium and stated that he was the representative for the Applicant, Mr. Nick Bakopoulos, also in attendance.

Summary of Mr. DeLucia's statements:

- Mr. Bakopoulos, Applicant, is the owner of the three (3) lots that are adjacent to the Seascape Golf Course.
- Each lot is over 15,000 square feet = to approximately 58,000 square feet for all three.
- There are no limitations for density in the commercial district.
- Lot coverage, storm water and waste water management would need to be managed and that the standard for parking would need to be addressed.
- Mr. Testerman stated that the Seascape townhomes are north and are in the BC-1 district and were constructed before the current ordinance was created.

Board Member discussion summary:

- Mr. Parker asked if the Board had any questions for Mr. DeLucia or the Applicant or should the Text Amendment be tabled until the next meeting for discussion due to the absence of Mr. Richeson and Mr. Rhoads?
- Mr. Geraghty asked Mr. DeLucia if the units would be attached and Mr. DeLucia stated that it would be two (2) stories of apartments = to one building with the possibility of parking under one of the buildings and that the fire code and elevator costs needed to be researched.

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-5-

- The Text Amendment is not site specific to this BC-1 district. For future Applicants, it would be applied as a Conditional Use Permit and all future applications would be reviewed on a case-by-case basis, subject to review by the Planning Board and Town Council.
- Ms. Collins raised a concern regarding the density and fire safety and due to the fact that Kitty Hawk does not have a water tower, there may not be enough water pressure should a fire occur at the site.
- Fire plans for any future Applicants would have to be included in the site plan and that the Fire Inspector reviews all site plans for; where the closest fire hydrant(s) is; water flow and that the water flow would have to meet a certain gallon per minute. It was also noted that multi-family dwellings may be required to be sprinkled.
- Mr. Geraghty stated that the Board should create a list of concerns and possible recommendations to address concerns
- As an aside, Mr. Testerman stated that the number of vacant properties still in the BC-1 district are not many in Kitty Hawk; six (6) lots across the bypass at Eckner south of Towne Bank and most of the BC-1's on the beach are rental homes.
- If the Text Amendment is tabled, Mr. Testerman will provide a list of all the vacant BC-1 properties.
- As a clarification on the recommendation for the Text Amendment, Mr. Testerman stated that a recommendation can be approved as just multi-family dwellings with no specific conditions attached; but, for any future Applicants all specific conditions would be reviewed OR, the Board can attach conditions to this Text Amendment and any future Applicants would need to meet those conditions in addition to any other conditions placed by the Planning Board or Town Council.
- For clarification, Mr. DeLucia stated that the current ordinance has provisions for waste water management, lot coverage, maximum building size which can be applied to the three (3) lots in question
- Mr. Geraghty asked about a residential buffer for the adjacent single-family house and Mr. Testerman stated that there is a buffer/landscaping requirement in the ordinance where a commercial district abuts a residential district and a vegetative buffer is required to be in place and specific language regarding buffers abutting single-family homes.
- Mr. Geraghty made a motion to table the Text Amendment until the next meeting and Mr. Muir seconded. Mr. Parker called for a vote and it was unanimous to table the Text Amendment until the next meeting.

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-6-

7. **Zoning Map Amendment: 5113 & 5117 Putter Lane.**

The Applicant is requesting a Zoning Map Amendment to rezone the listed parcels from BR-1, Beach Residential to MS-1, Emergency and Governmental Services District.

Proposal:

The subject properties are proposed to be rezoned from Beach Residential (BR-1) to Emergency and Government Service (MS-1) to accommodate the location of a new medical office building.

Background Information:

The two subject properties are currently owned by the Town of Kitty Hawk. At one point in time, the lots had been set aside for a proposed fire station. The Applicant is acting as an authorized agent in the rezoning request. As a part of the request, the Applicant has proposed a land swap with the Town. If approved, the Applicant will take ownership of the two lots and the Town would then take ownership of four (4) lots zoned BR-1, approximately 1,300 ft south of the subject properties. The subject properties abut land that is currently zoned MS-1 and is the site of the new ear, nose and throat office; the site has been approved for two (2) additional medical buildings.

According to the Applicant, a community survey conducted for "The 2016 Community Health Needs Assessment" identified medical care access as a critical health issue to residents of the Outer Banks. Access to health care facilities will be further reduced and Sentara Albemarle Medical Center that is scheduled to close on December 15, 2017. Approval of the rezoning request would allow the Applicant to partially mitigate the impacts of the loss of the regional medical center.

If approved, the Applicant will be required to submit for a site plan review and potential Conditional Use Permit at a later date. It has been discussed that any new development will share a low-profile development akin to the ENT office to the north.

Staff Analysis:

Current Zoning: BR-1. The Beach Residential (BR-1) district allows mainly single-family residential uses. A handful of limited institutional and commercial 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 sections of the Zoning Code outlines the permitted uses, prohibited uses and developmental standards for the BR-1 district.

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-7-

Proposed Zoning: MS-1.

The Emergency and Governmental Services District hospitals and medical centers by-right, and a number of other medical uses as Conditional Use Permits (physician offices, pharmacies, optometrist offices, etc.). The intent of the MS-1 district is to provide for the proper grouping and development of medical services, medical offices, emergency and governmental service facilities owned by the Town.

Proposed Development:

The Applicant is seeking to locate a medical office building similar to the recent built structure to the north. The Applicant proposes to maximize distance and minimize visual impacts to the surrounding residential properties. The site will be accessed via a single curb cut on N. Croatan Highway; the parking area could potentially adjoin the parking lot to the north, but will have no new curb cuts off of Putter Lane.

Should the subject properties be rezoned, the developmental proposal would have to undergo site plan review by the Planning Board and the Town Council.

Land Use Plan:

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. However, the land use plan is an important document to consider as it is intended to help guide the pattern of development in the Town.

The Town of Kitty Hawk's adopted CAMA Land Use Plan appears to designate the subject as a **Lower Density Residential Area**. The Plan provides the following description for a **Lower Density Residential Area**: *"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."*

The lots abutting the subject parcels to the north are shown as **Commercial, Shopping and Working Area** on the Future Land Use Map. The plan provides the following description for a **Commercial, Shopping and Working Area**. *"Commercial, shopping and working areas include areas that primarily encourage the concentration of commercial facilities in clusters or group developments and to provide readily accessible shopping facilities and will provide for the proper grouping and development of commercial facilities to serve permanent and seasonal residents and the general public. Some of these areas are envisioned to provide limited mixed uses"*

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-8-

Consistency with the Future Lane Use Plan:

There is no specific policy or goal listed in the land use plan relating to medical uses; however, Chapter X. Tools for Managing Development states:

The land use plan's function with respect to zoning is of prime importance. Proper administration of the Kitty Hawk Zoning Ordinance requires any review of a proposed Text or Map Amendment – whether by the Staff, the Planning Board and the Town Council – to be based on consideration of whether the proposed amendment is consistent with the Kitty Hawk Land Use Plan and otherwise advances the public health, safety and general welfare.

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.

- Mr. Testerman stated that there are two (2) lots in the Town off Putter Lane and three (3) lots that are approved for medical offices to the north. The four (4) lots to be given to the Town are south. Here, Mr. Testerman provided an aerial view on the screen to the Board showing the surrounding zoning as MS-1 to the north; BC-2 is across the street to the east and BR-1 are all to the south and west of the subject properties.
- The Applicant was in attendance and stated that there is 80,000 square foot that is being proposed to swap with the 40,000 square foot lots that the Town currently owns.
- Mr. Testerman stated that whenever rezoning is brought up, the first concern is 'spot zoning' and clarified that there is no 'spot zoning' related to this proposal and that it simply extending the boundary of the MS-1 south.
- Mr. Geraghty asked if what is being proposed is not done, can someone else come in and put a curb cut onto Putter Lane or do something different and Mr. Testerman stated that any different proposals would be required to come before the Planning Board and Town Council and that it is unlikely that anything brought forward concerning a curb cut onto Putter Lane would get approved with that curb cut based on the review from the previous site plan approval for the three (3) existing MS-1 lots to the north.
- Mr. Testerman also stated that most uses applied for would be Conditional Use Permits by and a site plan and the CUP would apply. He also stated that the only by-right uses listed are hospitals and medical centers and the site is not large enough to support such.
- Ms. Collins asked if the three (3) vacant lots on the opposite side are buildable lots and Mr. Testerman stated that they are buildable, and that in the time since this aerial photo was taken, three of the lots have been built upon.

Kitty Hawk Planning Board
Meeting Minutes
December 14, 2017

-9-

- Ms. Collins asked about low intensity lighting and if that would be an issue to the houses across and Mr. Testerman stated that the lighting ordinance prevents glaring lighting to adjacent properties.
- Mr. Geraghty stated that the property was originally designed for an additional fire house and that this proposal is an improvement and Mr. Testerman stated that if another fire station is needed, it would be less intrusive to the residents on the lots that are proposed to be given to the town as the lots back up to the golf course rather than adjacent residences as the current town owned lots do.
- Mr. Parker asked if there were further question and having none, asked for a Member of the Board to make a motion and Mr. Geraghty made the following: ***"I recommend approval of the Application to rezone the properties at 5113 and 5117 Putter Lane to Emergency and Governmental Services (MS-1). Although inconsistent with the Future Land Use Map in the Town's adopted land use plan, the Board has found that the plan otherwise advances the public health and safety and general welfare."***
- Mr. Parker seconded and asked the Members for a yea or nay and the motion was passed unanimously.

8. **Comments:**

- a. Chairman Richeson – absent; Vice-Chairman Parker asked if any Member of the Board had any comments and:
- b. Planning Board Members – none
- c. Town Attorney – none
- d. Planning Director – none

Mr. Parker wished everyone a Merry Christmas and Happy New Year.

9. **Adjourn:**

Mr. Parker adjourned the December 14, 2017 Planning Board Meeting at approximately 6:57pm.

Respectfully submitted by Patricia Merski, Recording Secretary