

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

**AGENDA**

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes
  - a. February 11, 2016
4. Administrative Report:
  - a. Town Council Action from 3/7 & 4/4 Meetings
5. Site Plan Review:
  - a. Beach Medical: 5201 N. Croatan Highway
6. Conditional Use Permit:
  - a. Kayak Rental: 4622 N. Virginia Dare Trail
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, April 14, 2016.  
**PLANNING BOARD MEMBERS PRESENT:** John Richeson, Chairman; Bryan Parker, Vice-Chairman; Jim Geraghty, Member; Dusty Rhoades, Alternate; Gary Muir, Alternate  
**PLANNING BOARD MEMBERS ABSENT:** Dylan Tillett, Member; Chuck Heath, Member:  
Due to the absence of Mr. Tillett and Mr. Heath, both Dusty Rhoades, Alternate and Gary Muir, Alternate will vote in their absence.  
**STAFF PRESENT:** Rob Testerman, Planning Director; Casey Varnell, Attorney, substituting for Steve Michael, Town Attorney.
2. **APPROVAL OF AGENDA:** Hearing no comments/corrections to the Agenda, the Agenda was approved unanimously.
3. **APPROVAL OF MINUTES – FEBRUARY 11, 2016:** Hearing no comments/corrections to the February 11, 2016 Minutes, the Minutes were approved unanimously.

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4. **ADMINISTRATIVE REPORT –Town Council Action From 3/7 & 4/4 Meetings:**

- Mr. Testerman gave the following updates from the Town Council Meetings on the March 7<sup>th</sup> and April 4<sup>th</sup> meetings:
- March 7<sup>th</sup> Meeting: Town Council approved the Conditional Use Permit for the fitness center at 500 Sand Dune. They also approved the site plan for Atlantic Dentistry.
- April 4<sup>th</sup> Meeting: Town Council approved the Conditional Use Permit for the Bounce House at the Sea Dune Shops and approved the Text Amendments for the placement of mobile homes.

5. **SITE PLAN REVIEW:**

- a. Beach Medical, 5201 N. Croatan Highway
- b. Prior to discussion on this proposal, Casey Varnell’s law firm has involvement with the aforementioned client and therefore, Mr. Varnell was recused from any discussions on this matter.
- c. Mr. Testerman indicated that any legal questions could be addressed to Mr. Ben Gallop who was representing the Town of Kitty Hawk on this matter.

**PROPOSAL:**

The Applicants are requesting an amendment of an approved site plan for 5201 N. Croatan Highway. The approved site plan is to develop a 5,992 square foot professional office building (6,857 square feet including porches). The site is currently undeveloped. It is the Owner’s intention to occupy one unit as Beach Medical Center and lease the remaining unit to a separate, compatible use.

The Conditional Use and Site Plan were previously approved by Council to include a Byrd Street connector. In order to make this connection NCDOT was to require a Traffic Impact Analysis. NCDOT has already issued an encroachment permit that will stand if there is no connection of the roadway. The Applicant has revised the Site Plan to omit the connection of Byrd Street. The driveway will access N. Croatan Highway and feed directly into the medical office. To deter drivers from going across the grass, six bollards are being proposed. All other improvements remain as originally approved by Council.

Mr. Testerman stated that this proposal was presented before the Board in December, 2015 and was recommended for approval with the roadway to have the roadway blocked off. After the Board recommendation, the Client submitted revised plans to the NCDOT showing the roadway blocked off based on their encroachment permit.

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Town Council approved the roadway being open through. NCDOT is requiring a Traffic Impact Analysis before they would allow the roadway to be opened through and therefore, the encroachment agreement became invalid.

NCDOT has stated that if they block off that roadway, they will stand by their original approval; so, instead of doing the Traffic Impact Analysis, the Applicant has preferred to block Byrd Street and move forward with the original NCDOT approval.

Minor changes on the site plan from what was approved previously (Mr. Testerman projected the plan on the screen), the roadway is now to be unconnected six concrete bollards are being proposed to deter anyone from driving up over the grass to Byrd Street and, there is also a second fire hydrant that was added to meet the Fire Department's requirement/approval. The Fire Department has reviewed the plan and have approved it.

Other than the changes mentioned above, everything else on the Site Plan was originally approved.

Mr. Richeson asked for any questions from the Board and Mr. Richeson if Council had included certain items into the proposal for approval?

Mr. Testerman stated that if the Board recommends approval, it will be just for the Site Plan Amendment and all the previous conditions set by Council regarding any other specific conditions remain as is. Mr. Testerman also stated that "this is just a Site Plan Amendment to change the roadway portion and add the second fire hydrant."

Mr. Richeson asked for a member of the Board to make a recommendation and Mr. Rhoades asked about the wording and if there was an amendment or is this how it is written?

Mr. Richeson stated the recommendation would be approved contingent upon any improvement(s) in the Site Plan that would be approved by Council.

Mr. Rhoades then made the following recommendation: ***"I recommend approval of the amended Site Plan for the medical offices at 5201 N. Croatan Highway, omitting the Byrd Street connector. This approval is contingent upon recommendations of Town Council for the medical offices. The Board has found this proposal to be consistent with the Town's adopted land use plan."***

Mr. Richeson called for a motion for approval, Mr. Parker seconded and the recommendation was approved unanimously.

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6. **CONDITIONAL USE PERMIT:**

- a. Kayak Rental, 4622 N. Virginia Dare Trail

**PROPOSAL:**

The Applicant is requesting approval of a Conditional Use Permit to locate a kayak rental business at 4622 N. Virginia Dare Trail. The operation would include 15 kayaks which would be stored inside the building, as well as two (2) jet surfboards, also to be stored indoors. Nothing is proposed to be stored on the exterior of the building. The Applicant proposes to utilize approximately 700 square feet of customer service area. Kayak rentals are permitted in the BC-1 zoning district, provided that any outdoor display must be completely screened from the public's view, from public and private rights-of-way or from the ground level of adjacent properties according to standards in article VI division 5 of the zoning ordinance (buffers and landscaping).

Mr. Testerman stated that recently a Conditional Use Permit for shared parking between this building and Art's Place was before the Board. He also stated that the Fire House Pizza business, originally approved by the Board will not be happening.

The existing building is the former Fire House Pizza and is currently occupied by a salon.

**BACKGROUND INFORMATION**

The subject property is presently zoned General Beach Commercial (BC-1). In total, the lot is 10,000 square feet (0.23 acre) in area.

The abutting properties to the north, south and east area also zoned BC-1 and contains Wink's to the north, the Saltaire Cottages to the south and a residential use and vacant lot to the west. The abutting properties to the east are zoned BR-1 and contains one residential unit and a vacant lot.

All meet the requirements other than the setbacks on the side yards. They are existing non-conformity uses and there is no requirement to change this unless it is a legal non-conformity.

**PARKING:**

Parking is 700 square feet for a customer service area at one (1) space/350 square feet of customer service area plus one (1) space/two (2) employees that equals three (3) spaces required. Currently, there are four (4) parking spaces existing on the site which meets the requirement.

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Mr. Testerman indicated that any other changes; i.e., lighting, etc. would have to be processed through the Planning & Inspections Department and would be approved administratively.

Mr. Testerman stated that Mr. Parker brought forth in the Town Code, Section 6-2C, which Mr. Testerman presented on the screen. Mr. Testerman indicated that he did not think this code would prevent an approval although it might limit where the water craft can be launched from and Mr. Varnell agreed that there might be an issue of limiting the jet surfboards and the launch points.

Mr. Testerman then quoted the Town Code – Section 6-2C as provided in the subsection “except it shall be unlawful to launch land or any engine-powered beach craft from the Atlantic Ocean beach in the Town. Exceptions to this prohibition follows any engine-powered craft used by Federal, State or local government personnel for emergencies or for government purposes of engine-powered craft with a length of 9.5’ or more.”

Mr. Parker stated that the 9.5’ length is probably dedicated to commercial fishermen and Mr. Varnell confirmed.

Mr. Rhoades asked if it won’t be allowed to do the jet ski surfboard and Mr. Testerman stated that if they are under 9.5’ in length, they won’t be able to launch into the Atlantic Ocean.

Mr. Richeson stated that it would have been appropriate for the Applicant to be at the meeting to answer some of the questions being brought forth by the Board Members.

Mr. Rhoades safety concern was taking the kayaks across the Virginia Dare Trail in the busy summer season and members of the Board stated that that exists now.

Mr. Richeson asked Mr. Varnell should the length requirement be included in the recommendation and Mr. Varnell indicated ‘yes.’

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Mr. Richeson further clarified that the recommendation should be consistent with the Town Ordinance that any motorized water craft would need to comply with Section 6-2C of the Town Code regarding motorized water craft.

Mr. Parker then stated that there may be two options; table the recommendation or approve with conditions. It is already an ordinance and the verbiage is not being changed so the Board would not be recommending anything new.

Mr. Muir stated that the Board could approve and make the Applicant cognizant of the ordinance requirement. Mr. Richeson then asked for a member of the Board to make a recommendation.

Mr. Parker made the following recommendation: ***"I recommend approval of the Conditional Use Permit in accordance with the Town Code Section 6-2C for the establishment of a kayak rental business to be located at 4622 N. Virginia Dare Trail. The Board has found this proposal to be consistent with the Town's adopted land use plan."***

Mr. Richeson seconded the recommendation and the Board approved the recommendation unanimously.

7. **COMMENTS:**

- a. Chairman Richeson – Mr. Richeson stated that he would not be in attendance at the next meeting and that Mr. Parker would resume the Chairman responsibilities. Mr. Richeson also thanked the Board for their help at the meeting.
- b. Planning Board Members – no further comments
- c. Town Attorney – no further comments
- d. Planning Director – no further comments

8. **PUBLIC COMMENT:**

No public comments.

9. **ADJOURN:**

Mr. Richeson, hearing no further comments, adjourned the Planning Board Meeting of April 14, 2016 at 6:20pm.

Respectfully submitted by Patricia Merski, Recording Secretary.