

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

1. Call to Order/Attendance
2. Approval of Agenda
3. Approval of Minutes:
 - a. June 16, 2016
4. Administrative Report:
 - a. Town Council Action from July 5, 2016 Meeting
5. Site Plan Review:
 - a. Beachwoods, Phase 2B
 - b. Beachwoods, Phase 2C
 - c. First Flight Ridge, Revised Site Plan
6. Unfinished Business
 - a. Text Amendment:
 1. Sec. 42-1, 42-253(c)6. Therapeutic Residential Treatment Facility
 - b. Conditional Use Permit:
 1. 3512 N. Virginia Dare Trail – Buccaneer Motel. The Applicant proposes to transition from a motel use to a therapeutic residential treatment facility.
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 on Thursday, July 14, 2016 at 6:00pm.
PLANNING BOARD MEMBERS PRESENT: John Richeson, Chairman; Bryan Parker, Vice-Chairman; Chuck Heath, Member; Jim Geraghty, Member; Dusty Rhoads, Member; Gary Muir, Alternate; Jan Collins, Alternate.
STAFF PRESENT: Rob Testerman, Planning Director; Casey Varnell, Attorney; Patricia Merski, Recording Secretary.

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Before Chairman Richeson proceeded with the Agenda, he addressed the audience by thanking them for coming and let them know that the Members of the Board had received their phone calls and emails. He then went on to clarify the duties and responsibilities of the Planning Board by stating that the Board operates as an advisory board to the Kitty Hawk Town Council and that any decisions made by the Planning Board are the recommendations made to the Town Council. He also stated that the Board is a final review for projects, plans, zoning and amendments to the Town and that the decisions the Board makes are not binding, as the Town Council votes on the recommendations of the Board on their own. Mr. Richeson also stated that when any text amendments, zoning changes or conditional use permits are presented to the Town Council, the Council sets a public hearing date where the citizens of Kitty Hawk can come and voice either their approval or disapproval for any of the above.

Mr. Richeson then proceeded with the Agenda Items.

2. **APPROVAL OF AGENDA:** Hearing no comments/corrections/additions to the Agenda, the Agenda was approved unanimously.
3. **APPROVAL OF MINUTES:** Hearing no comments/corrections/additions to the June 16, 2016 Minutes, Mr. Parker made the motion to approve the Minutes and Mr. Richeson seconded and the Minutes were approved unanimously.
4. **ADMINISTRATIVE REPORT:**
 - a. Town Council Action from the July 5, 2016 Meeting. Mr. Testerman stated that the Council approved the Text Amendment to eliminate a 50 foot buffer requirement between the planned commercial development district and any non-residential zoning districts. The Council also approved the Beachwoods Site Plan for Phase 2A.
5. **SITE PLAN REVIEW:**
 - a. Beachwoods Phase 2B.
Mr. Testerman started by saying that this phase is very similar to Phase 2A that the Board reviewed at the June, 2016 meeting and that Phase 2B was previously approved with the overall Master Plan for Beachwoods. He also indicated that the original approval was for 28 units and 70 bedrooms and the new revised Plan 2B still proposes 28 units but the current proposal is calling for 72 bedrooms vs. the original 70.

Mr. Testerman stated that as with the previous proposal (Phase 2A), the overall number of bedrooms and units for the Beachwoods development as a whole does not change and likewise, the overall density of the development does not change and remains the same as what was approved in the Master Plan.

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The proposal for Phase 2B (Mr. Testerman referenced the site plan on the screen) is for seven (7) new buildings, each containing four (4) units and a mixture of four (4) and two (2) bedroom units.

The proposal all calls for a new access drive to be cut off of Cypress Knee Trail which will also contain the parking for the new phase.

Mr. Testerman then referenced the Staff Report that the Plan meets all the zoning requirements regarding the parking, setbacks and building height. He also made a point to address the lot coverage for the area Phase 2B that it comes to 34.4% of the area and the development as a whole will be under the 30% maximum and therefore there are no issues.

Wastewater Disposal

Mr. Testerman stated that it is anticipated that the current system can handle the new phase but would require Health Department approval prior to the issuance of any building permits.

Mr. Testerman than stated the **Recommended Conditions:**

- Revised Stormwater Permit shall be obtained and provided to the Town prior to issuance of building permits.
- A revised Erosion and Sediment Control Plan to be submitted and approved by the Town prior to any land disturbing activities take place.
- Health Department approval for the increased usage on the wastewater system to be provided to the Town prior to issuance of any building permit.

Mr. Testerman stated that this area (Phase 2B) as designated by the Land Use Plan as a higher density residential area on the Future Land Use Map and the proposed development of additional family units in the Beachwoods development is consistent with the designation of the Land Use Plan. He then turned it over to the Board for discussion and stated that the Engineer of the project was in attendance.

Mr. Richeson asked if any of the Board Members had any questions for either Mr. Testerman or the Engineer and hearing none, Mr. Richeson asked for a Board Member to make a recommendation and Mr. Parker made the following: ***“I recommend approval of this site plan for the proposed Phase 2B of the Beachwoods development, located at 1 Cypress Knee Trail, subject to the conditions listed in the Staff Report. The Planning Board finds that the plan is consistent with the CAMA Land Use Plan.”***

Mr. Richeson seconded and the Recommendation was approved unanimously.

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b. Beachwoods Phase 2C

Mr. Testerman began by stating that Phase 2C was originally approved in the Master Plan for 16 units and 40 bedrooms. Phase 2C is consistent with what was originally approved.

The Proposal is for four (4) new buildings, each containing four (4) units with a mixture of four (4) and two (2) bedroom units. It also calls for a new access drive to be on Cypress Knee Trail and will also contain the parking for the new phase.

Mr. Testerman also stated that the south end of the plan shows a hammerhead turnaround that was installed which is for emergency access for fire, police or emergency vehicles that will allow them enough space to turn around.

He also stated that this has the 50' minimum buffer requirement because it's on the Exterior boundary line and the hammerhead turn aisle is right at the 50' mark and is Compliant with the minimum buffer requirement.

The same recommended conditions; the revised stormwater permit, erosion and Sediment control plan and the Health Department approval for the increased Usage on the wastewater systems will have to be provided to the Town prior to Issuance of any building permits.

Mr. Richeson asked if any of the Board Members had any questions for Mr. Testerman or the Engineer and Mr. Richeson stated that the specific areas referenced on the site plan this evening were clearly shaded and easier to identify and thanked the Engineer for those efforts.

Mr. Richeson, hearing no further questions/comments from the Board, asked for a Board Member to make a recommendation and Mr. Geraghty made the following: ***"I recommend approval of this site plan for the proposed Phase 2C of the Beachwoods development located at 1 Cypress Knee Trail, subject to the conditions listed in the Staff Report. The Planning Board finds that the plan is consistent with the CAMA land Use Plan"*** and Mr. Richeson seconded and the Board approved the recommended unanimously.

5.c. First Flight Ridge – Revised Site Plan

Prior to any information or discussion regarding First Flight Ridge, Mr. Parker recused himself from any discussion/input due to his relationship with the Applicant and Mr. Richeson asked Ms. Collins, Alternate, was designated to vote in place of Mr. Parker.

Prior to presenting the particulars of the proposal, Mr. Testerman stated that he had received a few phone calls which indicated that there is not a 100% consensus of the property owners who are in favor of this proposal, as there were a few who were not in favor of the gate being replaced.

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PROPOSAL

The Applicant is requesting approval of a revised site plan for the First Flight Ridge subdivision. Currently, the development is a gated subdivision accessed by one ingress/egress point, First Flight Run via N. Croatan Highway. Mariner's View and Da Vinci Lane are physically connected by asphalt to areas outside of the development of these accesses that are blocked by gates that are for emergency use only. The property owners of First Flight Ridge HOA would like to replace the locked gate with a remote access gate, like the one at the entrance to the neighborhood. This would allow residents to exit the development through Mariner's View, allowing them to travel to Kitty Hawk Road to more safely make a left hand turn onto N. Croatan Highway.

BACKGROUND INFORMATION

First Flight Ridge was approved as an 83 lot subdivision. It is currently about half developed with a potential buildout. A study released by the Federal Highway Administration tracked household trips per day from 1977-2009. The study shows that the average American household produces 9.5 trips per day, 82% of which being vehicle trips (7.79 vehicle trips per day, per household). At a 50% buildout for this subdivision, this translates to 323.285 vehicle trips per day. At full buildout, this number would be 646.57 vehicle trips per day. It should be noted that these are potential numbers as many of the homes in the development are not lived in or utilized full time.

The site plan was originally approved as a gated community with no through streets. The gated connections to Mariner's View and Da Vinci Lane were installed for emergency use only and have been used when roads to the east are flooded.

Approval of the revision would make exiting the development safer for residents exiting the development but could potentially negatively affect those property owners on the outside of the gates who bought property in what is, effectively, a cul-de-sac who would now see traffic greatly increased in the cul-de-sac.

LAND USE PLAN

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the subject property as a 'Lower Density Residential Area' on the future land use map.

Mr. Heath asked how many homes outside of the gate would be affected and Mr. Testerman stated that he had not physically counted, but an Audience Member called out seven (7). If Mariner's View and Beacon Drive is taken into consideration with Woodward, it is estimated at 40-50 residences.

Mr. Geraghty wanted to know, when the development was originally developed were those roads accessible per the Town ordinance.

Mr. Testerman stated that in reviewing prior minutes that there was some discussion, but he couldn't find where that actually came into play but that there were complaints from the residents on the other side of the gate that were talking about construction trucks coming through and speeding up and down the lane, and as part of the approval they added in the gate.

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Mr. Testerman than stated the roads inside the development are private and the roads on the outside of the development are Town roads and he is not sure if there would be conflict of where the roads meet or is it just a matter of having the Town maintain them to that point and then the HOA would be responsible for roads past the gate which may also be a question for the Public Works Department.

Mr. Geraghty posed a hypothetical question; 'if the builders came in today to build the subdivision and they wanted to put the gate in, would that fall within the Town ordinance and would they be able to do it?'

Mr. Testerman stated that it was a probability and that the DOT wants to see as much connectivity as possible that would make it easier for emergency vehicle access and Mr. Geraghty stated that he had been present for some of the earlier meetings concerning the subdivision and the roads were more for emergency vehicles and maybe, in hindsight, it could have been approved from the start.

Mr. Rhoads then asked if the Town would be liable for the repair of the road inside the development and also stated that there are certain areas where he drives in Southern Shores where he has to have a Rider on his insurance policy in case his truck damaged the road and would that be the case for the homeowners in the subdivision?

Mr. Testerman stated that the Town would be responsible for maintaining the Town roads and not responsible for the roads inside the subdivision.

Mr. Rhoads stated that he has used those roads after a flood and knew that some of the homeowners were not happy to see the traffic going through the subdivision.

Here an Audience Member called out that the residents of the subdivision need some semblance of privacy and that some of the residents have been there since 1987 and live there year round.

Another Audience Member called out that people's GPS' bring the traffic down their road and that there are 40-50 houses that are going to be affected by this.

(Due to the high level of interest in this matter, Mr. Richeson interrupted and reminded the audience members that they can speak during the Public Comment portion of the Meeting which is at the end of the Board discussions.)

Ms. Collins asked Mr. Testerman, 'when the subdivision was built, and not sure if it was First Flight Ridge, but there is a home when going down the street to go out on the left-hand side that has a pool and the pool area is a little lower than the house so you can see people. (as she did when she drove by the area) She stated that, 'sometimes when you're building a subdivision and you have a cul-de-sac, there is more value to that lot and one would pay more for that lot.'

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Ms. Collins then stated that, just in consideration, when you open up this road, the value will no longer be there because it will be a thoroughfare and she was not sure if some of the residents would be impacted monetary-wise because of the road opening.

Mr. Richeson then questioned Mr. Varnell by asking if this proposal was denied and someone goes out to the bypass and tries to pull out and gets into an accident would the Town be liable and Mr. Varnell stated 'no.'

Mr. Richeson stated that he had given this proposal considerable thought and stated that sometimes things look really good on paper but when the actual, practical application is introduced, the benefits are not what was originally thought. He also stated that, as he sees it, the plan is to try to divert traffic to the Kitty Hawk intersection and that that intersection may not be the busiest in the Town, but it probably is one of the more dangerous in the Town.

He then mentioned the traffic on Sundays from the Catholic and Methodist Churches being backed up and sometimes those going to 7-11 and turn onto Kitty Hawk Road cars are backed up onto 158. He also stated that he's aware that some of the other businesses in the Town have the same problem, especially in the Summer. Mr. Richeson felt that this proposal is taking one problem and shifting it to another problem and would hate to see the residents of First Flight Ridge go to the expense of putting up the gate and then find out that it wasn't working as they had hoped.

Mr. Geraghty stated that he sees no benefit for First Flight Ridge or for the Town because all we would be doing is just redirecting a traffic problem and more people would be affected and as Ms. Collins stated, if someone moved here and had little children and bought in the cul-de-sac, thinking that the only traffic entering were the homeowners, guests and all of a sudden it became a thoroughfare they wouldn't be happy.

Mr. Heath stated that he has the same problem living in Sea Dunes in having to turn right and turn back around if you want to go left and asked if there were any other options than what was presented at this meeting?

At this time, the President of the HOA, Mr. Michael Taylor came to the dias and proceeded to give the Board Members and members of the audience a little more background regarding the proposal.

Mr. Taylor stated that there is a little more to this proposal than what was presented and that a few months ago, he met with Mr. Testerman about the concerns of the residents of First Flight Ridge and that the project that has been discussed was actually an afterthought.

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Mr. Taylor stated that over a year ago the HOA reached out to the NCDOT to help with the entrance and it really is not about turning left out of the neighborhood, it's about turning without getting plowed into.

Mr. Taylor stated that First Flight Ridge shares an entrance with Captain Frank's and there is a danger spot which is what they are trying to resolve. Again, he stated that they have reached out to DOT 5-6 times without a return response and Mr. Testerman also made an attempt to DOT and also has had no response and that is why the HOA started looking at other alternatives and began looking at a rear gate. He stated that this has to do with the safety of entering the neighborhood and this was a way to get out without any serious accidents.

Mr. Taylor stated that there are 82 lots in the neighborhood and of the lots there are one-half built and of those about one-half of the residents occupy residences year round.

Mr. Richeson stated that it sounds more like a DOT issue rather than a Town issue and Mr. Taylor stated that it started out as a DOT issue and that the other option is about what can be done in the interim.

Mr. Geraghty asked if the HOA had tried contacting an Engineer who has worked/works with DOT and they would know the process to go through and Mr. Taylor stated that he had not been given any guidance on that and Mr. Geraghty then stated that the easiest way to go would be to hook up with a local engineer that works with DOT on a regular basis and they would know the procedures and how to handle this and be able to guide the HOA through the process.

Ms. Collins then asked if the original developer was still around and Mr. Taylor mentioned BD&A and an Audience Member called out that he had spoken with someone this morning regarding this.

An Audience Member called out that with the subdivision was originally designed it was designed as a gated community and that the Town of Kitty Hawk forced the developer to put the road in with no exit/entrance only through the gate and that that road was not on the original design.

Ms. Collins stated that if they could find the engineer who worked on the original plan it may be possible to go back to that person to see if they could revamp the entrance to make it more suitable and possibly try to find a connection with BD&A and Mr. Taylor stated that BD&A was no longer in business.

Mr. Richeson then thanked the Applicant and asked for a Member of the Board to make a recommendation and Mr. Richeson made the following: ***"I recommend disapproval of this revised site plan for the First Flight Ridge subdivision, allowing a new gate at Mariner's View to allow subdivision traffic to exit onto Mariner's View."*** Mr. Rhoads seconded and the denial was approved unanimously.

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6. Unfinished Business:

a. Text Amendment:

1. Sec. 42-1, 42-253(c)6. Therapeutic Residential Treatment Facility

Mr. Testerman put the zoning map on the screen for the Board, the Applicant and Audience Members to see.

Mr. Testerman stated that the Text Amendment deals with the BH-1 zoning district and the three (3) areas in BH-1 are at the southeast corner of Town, the northeast corner and the northwest corner of the Town as you come off of Wright Memorial Bridge. Mr. Testerman stated that the Text Amendment has not changed since the June Board Meeting in June and that at the last meeting Staff was asked to look at what other localities have done regarding this type of zoning for this type of use.

Mr. Testerman stated that the Briggman's brought to Mr. Testerman a few examples that Mr. Testerman then researched; one was in Blackwater, NC that is located in the R-1 residential zoning district and was in place before the County's adopted zoning and now exists as a legal non-conforming use. They had bought surrounding property in an attempt to expand, but were not permitted to do the expansions.

Another example was the Jude House in Bel Alton, MD and the locality recently heard and approved a special use permit for a halfway house to be located in the Rural Conservation Zone which permits up to nine (9) unrelated individuals in the dwelling and the third example is the Four Circles Recovery Center in Horse Shoe, NC which is in their low-density residential zoning district.

Also discussed at the June Board Meeting were the 'possible conditions' to be incorporated into the Text Amendment for approval which are:

- No more than 16 participants
- A 3-month maximum length of stay – June meeting the proposed was a 2-month stay, but staff had been informed that the applicant would prefer 3 months.
- Background checks prior to admitting any participants and those with records of violent crime or sexual offenses would not be accepted into the program.
- All necessary state licensing required for Staff.
- No detoxification programs administered on site. The program is strictly therapy in helping those get back to a normal life.

Mr. Testerman stated that one condition that has changed since the June meeting was that the clients would not have vehicles for their personal use and Mr. Testerman was made aware that there are now two (2) levels of treatment; inpatient and outpatient being proposed. The inpatient would be considered the intensive program where the clients would be monitored 24/7 and would not be allowed to leave the site unless accompanied by an escort and would not have access to vehicles.

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The proposal would now include an outpatient program for clients who have already gone through the intensive program and are transitioning to a more normal life and would have the use of a vehicle so they could go off-site to their place of employment and would still be held to a curfew.

More research by Mr. Testerman indicated that 'family care homes', which according to the Fair Housing Act and Americans With Disabilities Act includes homes for recovering addicts are allowed in any zoning district that allows single-family residences. They cannot be prohibited or subject to any special review requirements, such as a conditional use or special use. To qualify for this treatment under North Carolina law, the facility must be designed to provide room, board and care for six (6) or fewer disabled persons in a family environment.

The proposal before the Board is for 16 residents; thus does not qualify as a 'family care home,' as it exceeds the six (6) or fewer residents requirement. However, Federal statutes require local governments to make 'reasonable accommodation' for these types of requests and there is no clear answer as to what constitutes 'reasonable accommodation', as it is determined on a case-by-case basis. According to a joint statement from the Department of Justice and Housing and Urban Development, a 'reasonable accommodation' can be determined by answering two questions: a) does the request impose an undue burden or expense on the local government?; and, b) does the proposed use create a fundamental alteration to the zoning scheme? If the answer is 'yes' to either question, it is not a reasonable accommodation.

According to the Land Use Plan, the areas zoned BH-1 are shown on the Future Land Use maps as 'commercial, shopping and working areas.' '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. The uses in Town most similar to the proposed use would be the medical uses, which are all located in 'commercial, shopping and working areas.' The use being reviewed by the Board would be the treatment center as defined by the Applicants and the most comparable uses that the Town would have to review would be somewhat of a combination of multi-family and residential housing which is sort of multi-family. The vision would be for 16 individual apartments with resident occupation and the institutional use would be the treatment aspect of the plan. Mr. Testerman stated that he was simply speaking of uses as it relates to zoning, and not type of occupancy with regards to fire or building codes.

At this point, Mr. Testerman indicated that the Briggman's have prepared a slide presentation regarding their plan. Aubrey Briggman the proceeded with the presentation:

- Therapeutic Treatment Center definitions:

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- Individual, group and family
- Structured programs
Morning, day and evening
- Wellness and holistic programs:
Exercise, nutrition, life skills, etc.
- Monitoring of clients 24/7 – 3 shifts in all
- North Carolina Requirements
General and specific
Crisis Management
Relapse Programs
- Staff Requirements:
What training required by the State
- Licensed and qualified professionals
- Mandates
- What is required to be registered by the State
- Criteria for admission and discharge:
Participants have to have gone through a detox program prior to admission
Clients 18 and over must go through a background check
Clients must also sign Conduct Agreement prior to being admitted to the program
- Admission Assessment
Must meet all admission requirements
- Zero Tolerance Policy
- Search and Seizure Policy

Mr. Briggman then spoke and indicated that there would be no physical changes to the motel and they have decided to leave the 'Buccaneer Motel' sign up to protect the clients' privacy and that there will be a few cars that would belong to the outpatient clients.

Mrs. Briggman indicated that all participants , visitors, guests, etc. will be known to the Administrator.

Mr. Briggman returned to the presentation and spoke about the Intensive Treatment parameters:

- Individual rooms with kitchen
- 24/7 monitoring
- Curfews
- Ongoing assessments throughout treatment
- Group, individual and family therapy sessions
- Structured environment
- Medical services off-site
- Abstinence program

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Outpatient Treatment parameters: Step-down from the Intensive Program

- Individual rooms with kitchen
- On-site therapy – group, individual and family therapy sessions
- Structured environment
- Zero tolerance
- Monitoring assessments
- Abstinence program
- Curfew
- Off-site employment
- Off-site employment – personal vehicles permitted

Mr. Briggman went on to state that there currently is no facility like this in Dare County or in any of the counties west of Dare and that such a facility would provide professional employment for the county and would allow families to participate in the treatment of their loved one. The facility is geared to those clients who want the help and such a program would enhance the reputation of Kitty Hawk and Dare County.

He also stated that the treatment center would also be a support center for other community agencies that also help fight the war on drugs and alcohol and then Ms. Briggman read the center's Mission Statement.

Mr. Briggman stated that he does not anticipate any adverse effects to the neighborhood; ideally, people would not be aware that it was a treatment facility and would think it was still a motel. He also stated that they wanted to go through the process rather than just trying to go around the approval process.

He also stated that there are a few Oxford Houses in Kill Devil Hills which are sober living houses and the difference is that this proposal provides for intensive therapy, full monitoring and background checks where the Oxford Houses does not have that criteria and that all four (4) are in low-density residential areas which are not commercially zoned.

Mrs. Briggman again stated that the reason to keep the 'Buccaneer Motel' sign was for the privacy of the clients and their families. Also, the motel is safe in regard to the security of the individual rooms which have a key card system which is not your basic hotel key card. She explained that each card has a chip in it and it is held up to the door to unlock it. Concerning clients that are asked to leave and their key card, there would be a different key card and the former client would not be able to re-enter the room.

She also stated that the key card system can be queried and would show, for example, how many times the door has been open and which key card had opened the door. The Staff would have a different level key card which would enable them to get into any room at any time for any reason.

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Mr. and Mrs. Brigman have been Guardian Ad Litum for the past 13 years and that they have found it difficult to find help for children of parents that have addiction problems and by having such a facility in Dare County that would alleviate some of the problem. Also, this is a passion for their family as their son has been addicted to drugs and alcohol and has received treatment in Florida as there was no such facility locally.

Mr. Richeson asked if any of the Board had any questions and Ms. Merski asked Ms. Briggman what qualified her to be a part of the facility and she stated that she has a BS in Psychology and is attending online Grand Canyon University to become a therapist.

Mr. Rhoads asked how the 24/7 monitoring is done, via cameras in each room and Ms. Briggman indicated the site is monitored to make sure that the clients are in their rooms and that they know where each client is at all times. Mr. Rhoads also asked if there were video cameras outside of the facility and Ms. Briggman stated that that would be something they would want to do going forward.

Mr. Richeson then asked how the Outpatient clients are monitored and were they also subject to random drug testing and Ms. Briggman stated that they are subject to random drug testing and the client, prior to being admitted, had to sign an agreement in that regard and then another agreement when they step down to outpatient.

Mrs. Briggman stated that the Administrator and Clinical Director would be on-site and for the outpatient clients, they would know the starting and ending times of those clients' and that the clients' would need to inform their employer where they are staying and the client would have to sign an authorization giving the Administrator permission to contact an individual's employer to verify their start and end times and get an assessment of their work performance. It is also hoped that each clients' employer would also be part of the clients' team as well.

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Mr. Muir asked if the clients are free to go wherever they please and Ms. Briggman stated that a Case Manager would escort the clients' whenever they are off-site. She also stated that all the Case Managers will have Bachelor's degrees and experience but will also be trained according to the requirements of the state of North Carolina and will be supervised at all times.

Mr. Testerman added there would be a public hearing at the Town Council Meeting and that the responsibility of the Planning Board is to make a recommendation to the Council and they would make the final decision.

An Audience Member shouted out and wanted to know when he could speak and that Mr. Richeson stated that this was not a public hearing and the audience would have a chance to speak during the Public Comment section of the meeting and that the Council would be responsible to set up a public hearing. Mr. Testerman stated that if the Board makes a recommendation at this meeting, the public hearing would be scheduled for the September 6, 2016 Town Council Meeting.

Mr. Testerman then stated that at the June Board meeting, the Board asked Staff to get feedback from neighboring property owners and Mr. Testerman went to the GIS map and he took a measurement from the Buccaneer property north to the 550' mark, where N. Virginia Dare Trail intersects with Tateway, then and mailed out approximately 75 letters to all property owners within a 550' radius of the subject property and received feedback emails which were forwarded to the Board. He also wanted to point out that some of the comments in the emails had to be redacted as recovering addicts are a protected class by the Americans with Disabilities Act and anything could be possibly viewed as a discriminatory statement against the protected class was blacked out on those specific emails because the Board does not want any undue influence to sway the recommendation that the Board or Council would make.

Mr. Richeson stated that he was very impressed with the presentation and that the task of the Planning Board is to decide if this use is going to be consistent with the BH-1 district. He also stated that as it stands now, the permitted uses are hotels, motels, offices, financial, government, medical and professional where at these places people go for a short time and leave.

Also, primary retail stores, recreations, service establishments and those listed in the conditional uses are, according to the ordinance, residential, single-family dwellings, rental/recreational vehicles, bed & breakfast, Christmas tree sales and churches.

Mr. Testerman stated that this facility could be looked at as a combination of a multi-family dwelling and institutional use where it would be for 16 individual apartments under one development although it's not 'technically' a residence and from a zoning standpoint it could be looked at as an institutional use in a multi-family setting.

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Mr. Richeson stated that if the Text Amendment is approved, this use would be added to the BH-1 district zoning ordinance and even though he feels that it would be an A-1 run facility, the decision comes down to if it fits the intent of the zoning ordinance when the zoning ordinance was originally issued. Mr. Parker also stated that he felt the same way concerning the intent of the Land Use Plan.

Mr. Richeson stated that with the Conditional Use Permit and the zoning ordinance it would have a better fit in the medical services type of zoning ordinance. He also stated that there is a big need for this but is the BH-1 district the place to put it and that is the question before the Board.

Mr. Richeson then referred back to Mr. Testerman regarding the 'reasonable accommodation' questions: a) does the request impose an undue burden or expense on the local government? And b) does the proposed use create a fundamental alteration to the zoning scheme? And if the answer to either question is 'yes' then it is not a reasonable accommodation and Mr. Testerman stated yes, according to the DOJ and the HUD statement.

Mr. Richeson then asked a Member to make a recommendation and Ms. Collins stated that the purpose is great but her concern is the physical plant – the structure itself as being antiquated, lack of a sprinkler system, etc. Her concern is for the safety of the individuals and would ideally like to see this type of facility in the proper building in the appropriate district. Her concern is also centered around the lack of medical personnel on-site and worries that the Town would have to constantly work with the Applicant to build it out to what it should be to care for the individuals that are there.

Mr. Richeson asked for a member of the Board to make a recommendation, hearing none, Mr. Richeson made the following recommendation: ***"I recommend denial of the conditional use permit for the establishment of a therapeutic residential treatment facility to be located at 3512 N. Virginia Dare Trail by reason that the proposed Text Amendment would fundamentally alter the Town of Kitty Hawk's zoning ordinance and would be an unreasonable accommodation."*** Mr. Parker seconded the motion and all Members voted 'aye' and it was passed unanimously.

Mr. Geraghty interjected that this is something the Council should be looking at in finding the correct zoning for this proposal.

Mr. Richeson then addressed the Applicant by stating that it's not a problem with the plan and how they plan to do it, it comes down to the zoning and as stated at the beginning of the meeting, this is a recommendation and it still will have to go to the Council where the Applicant will have an opportunity to give their presentation.

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- b. Conditional Use Permit:
 - 1. 3512 N. Virginia Dare Trail, Buccaneer Motel. The Applicant proposes to transition from a motel use to a therapeutic residential treatment facility.
- Mr. Richeson stated that because the Text Amendment 42-1 and 42-253(c)6 was denied, that would fundamentally alter the Town of Kitty Hawk's zoning ordinance and would be an unreasonable accommodation. Mr. Parker seconded and was denied the Conditional Use Permit would also be denied and all Members voted "aye" and the motion was passed unanimously.
- 7. Comments:
 - a. Chairman Richeson thanked all of the participants for their input.
 - b. Planning Board Members: Mr. Geraghty asked how would we go about bringing this proposal to the Council and Mr. Testerman stated that he can speak with the Council to see if it could be put on the Agenda for discussion.

Mr. Rhoads agreed and stated that there was a place for everything but it may be hard to find the appropriate structure in the proper zone.

- c. Town Attorney – no comments
 - d. Planning Director – Mr. Testerman welcomed Ms. Collins to the Board.
8. Public Comment:

Mr. Winston Culpepper who lives on Sibbern came forward and stated that his son is an addict and a place such as this is needed and that he is not against it but it's just not the right place as there are too many families and kids and the trailer park is next door. He feels safe where he currently lives and has seen the characters at some of these places and stated that he doesn't think anyone would want them next door to you.

Ms. Fay came forward and stated that she owns a house at 3519 Poseidon Street which is one of two nearest the motel and that this was the second time she has come before the Board and appreciated her being able to speak. She stated that it is important to her to keep her grandchildren and great-grandchildren safe and we all know that nothing works 100% of the time and she would like for each Member to remember that and that "It doesn't but take one."

Mr. Dave Thomason, Vice President, First Flight Ridge, HOA and stated that the proposal is not welcomed from the outpouring of the audience. They are all neighbors and that he is here to ask for something to make the Town safer. It's not a we vs. you issue and he thanked the Board for hearing his comments.

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Mr. Rick House, House Engineering addressed the Board and that he has had a business and his residence in Kitty Hawk since 1995 and bought the last piece of property that hadn't been built on Mariner's View – just outside the gate. He stated that at the exit only is a safety issue and also a convenient way to exit their subdivision instead onto 158. The exit on 158 does include Captain Frank's and he understands that there is a problem there about left-turn, right-turn traffic.

He stated that he speaks for the homeowners in three subdivisions; Bay Ridge, Keeper's Hill and Wooded Acres are the three subdivisions that residents from First Flight Ridge would need to use to get to the Kitty Hawk light in order to exit at the light. He feels that this is an irresponsible move for the Town to allow that and that it has been deeded on the subdivision map for First Flight Ridge as a restricted, emergency access and feels it should remain that way. He also stated that it would devalue property values and if that is opened up as an 'exit only' for the cul-de-sac residents who bought the property in the cul-de-sac.

Mr. Austin Kelly came forward who resided at 112 Mariner's View and lives on the farthest south lot to the First Flight gate and that in returning to the Outer Banks wanted to live in a cul-de-sac and feels that it should remain the same.

Mr. Richeson thanked the Audience Members for their participation and stated that we are all Kitty Hawker's and that hopefully all can be worked out for a good solution. Outer Banks wanted to live in a cul-de-sac and feels that it should remain the same.

9. Adjourn – Mr. Richeson adjourned the meeting at 7:35pm

Respectfully submitted by Patricia Merski, Recording Secretary.