

---

**Town of Nags Head  
Planning Board  
January 19, 2021**

The Planning Board of the Town of Nags Head met on Tuesday, January 19, 2021. Due to Covid-19 restrictions, this meeting was held electronically/remotely utilizing the online ZOOM meeting platform. Members of the public were invited to attend the meeting using the ZOOM platform or app, or by calling in using a phone.

Planning Director Michael Zehner called the meeting to order at 9:00 a.m. as a quorum was present.

***Members Present***

Megan Vaughan, Molly Harrison, Gary Ferguson, Meade Gwinn, Megan Lambert, David Elder

***Members Absent***

Kristy Wright

***Others Present***

Kelly Wyatt, Holly White, Lily Nieberding

***Election of Chair and Vice Chair for Calendar Year 2021***

Mr. Zehner opened the meeting and requested nominations for the position of Planning Board Chair for calendar year 2021. David Elder moved to nominate Megan Vaughan to serve as Chairperson. Meade Gwinn seconded the motion. There being no other nominations a roll call vote was taken, and the motion passed unanimously.

Mr. Zehner then requested nominations for the position of Vice-Chair. Molly Harrison moved to nominate Kristi Wright as Vice Chair. Meade Gwinn seconded the motion. There being no other nominations a roll call vote was taken, and the motion passed by unanimously.

Mr. Zehner then turned the meeting over to newly re-elected Chair, Megan Vaughan.

***Approval of Agenda***

Chair Vaughan asked for a motion to approve the agenda. David Elder moved to approve, Meade Gwinn seconded, and the motion passed unanimously via roll call vote.

***Public Comment/Audience Response***

None

***Approval of Minutes***

Chair Vaughan asked for a motion to approve the minutes of the December 15, 2020 meeting. Meade Gwinn moved to approve the minutes as presented, David Elder seconded, and the motion passed unanimously via roll call vote.

**Action Items**

Consideration of a Conditional Use Permit and Major Site Plan Review submitted by Ralph Buxton of RDB Holdings, LLC for the construction of approximately 196 feet of new dock for Kitty Hawk Water Sports located at 6920 S. Croatan Highway, Nags Head, NC. The property is zoned C-2, General Commercial and is located within the Commercial-Outdoor Recreational Uses Overlay District and the Ocean and Sound Waters District.

Deputy Planning Director Kelly Wyatt explained that Ralph Buxton of RDB Holdings, LLC had submitted a Conditional Use Permit/Major Site Plan Review for the purpose of constructing approximately 196 feet of new dock at Kitty Hawk Water Sports to better facilitate operation of existing water dependent commercial outdoor recreational activities.

The property, 6920 S. Croatan Highway, is zoned C-2, General Commercial and is located within the Commercial-Outdoor Recreational Uses Overlay District and the Ocean and Sound Waters District.

Ms. Wyatt noted when it was originally permitted, outdoor recreational activities, such as personal watercraft rental, were permitted by-right, and at that time Mr. Buxton received the appropriate site plan approval. Commercial-outdoor recreational activities are no longer permitted by right, so the applicant is seeking Conditional Use Permit approval at this time.

In review of the Comprehensive Land Use Plan, Staff found the proposal to be consistent with policies supporting access to the water and water-based recreation opportunities as well as support of local businesses. Staff also found that the proposal improves the conditions of the watercraft rental operations with respect to the protection of the estuarine resource.

Ms. Wyatt then reviewed the applicable Zoning Regulations:

- There are no additional lot coverages being proposed as part of the Conditional Use/Major Site Plan request for construction of the dock. Separately, the property owner intends to replace the existing wooden walkway over land with hog slats, all of this work is to be within the existing footprint with no additional coverages as part of that project as well.
- There are no structures associated with this request to be regulated by height or architectural design requirements.
- There is no change or alteration to the operation of the water dependent uses, only the construction of the dock to enhance customer safety and water accessibility therefore existing parking is adequate.
- Planning staff will ensure that all onsite landscaping and buffering is compliant prior to the issuance of final zoning.
- Lighting will be unchanged however a light audit will be conducted by staff prior to issuance of Final Zoning Approval to ensure continued compliance.
- No changes to signage is proposed as part of the scope of work.

The scope of work proposed does not necessitate review and approval by the Dare County Health Department nor does it necessitate stormwater management and/or traffic circulation review.

The Project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance. The Deputy Fire Chief did have one comment during Tech Review which has since been addressed and approved. The Public Works Director has also reviewed and approved the proposal as presented.

A CAMA Major Permit is required for this proposed use and review is under way. No Building or Zoning permits will be issued prior to receipt of the proper CAMA Major Permit review and approval.

Based on their review Staff finds the proposed Conditional Use/Major Site Plan review to be consistent with the applicable use and development standards, as well as relevant land use policies and would recommend approval of the Conditional Use/Major Site Plan application as presented.

Ms. Wyatt presented the proposed site plan for the Board's review and questions. Ms. Wyatt noted that applicant Ralph Buxton and Engineer John DeLucia were also present and available to answer any questions for the Board.

Mr. Ferguson asked how parking is calculated for personal watercraft such as jet skis. Mr. DeLucia noted that it was one parking spot per three watercrafts.

Mr. Ferguson also inquired about the use of the two proposed boat slips. Mr. DeLucia noted that the slips would be used for maybe a rescue boat or if someone rents a catamaran to have a place to tie it as they are not kept in the water regularly. The floating docks would be used for the jet skis, to get people safely in and out of the water. Mr. Buxton confirmed for Mr. Ferguson that there were no plans to rent out the boat slips.

Mr. DeLucia confirmed for Mr. Elder that Mr. Buxton already has fueling facilities in place and the proposed standpipe for fire protection was suggested by the Deputy Fire Chief.

Mr. Buxton confirmed for Mr. Elder that they had no plans to host any events on the docks. Mr. Zehner noted that any other uses or changes of use would need the proper permits.

Mr. Zehner confirmed for Mr. Ferguson that the Town will be looking at the Soundside Boardwalk/Access as part of the Estuarine Shoreline Management Plan. Mr. Zehner and Mr. DeLucia confirmed that the Turfstone right-of-way has been abandoned for quite some time. Mr. Buxton confirmed that he was supportive of the Soundside Boardwalk Project.

Mr. Buxton explained for Mr. Elder and the Board the different options for getting the personal watercraft in and out of the water.

There being no more questions for the applicants, the Board discussed the proposal.

Ms. Harrison felt that they (the applicants) "had their ducks in a row" and saw no issues with what was being proposed. Mr. Gwinn agreed noting that it "was well thought out".

After some further discussion Meade Gwinn moved to recommend approval of the conditional use permit/site plan as presented. Gary Ferguson seconded the motion. The motion passed unanimously via roll call vote, with Megan Lambert abstaining.

### ***Report on Board of Commissioners Actions – January 6, 2021***

Mr. Zehner gave a report on the Actions from the Board of Commissioner's January 6, 2021 Meeting. Of note, a Public Hearing was held to consider a text amendment to the UDO pertaining to the reduction of the side yard setbacks for corner lots abutting unimproved rights-of-way. The motion to adopt the text amendment (Option "D") with the following addition: "being developed for a residential use and" passed 4 – 1 with Comr. Fuller (agreeing with the Planning Board determination) casting the NO vote; 9. A Public Hearing was held to consider text amendments to the UDO pertaining to uses

allowed within the C-3, Commercial Services and C-2, General Commercial Zoning Districts, the "Furniture Store" and "Furniture Showroom" uses, the "Warehousing & Storage Facilities" use and storage as an accessory to these uses; the Board tabled consideration of the ordinance. Mr. Zehner updated the Commissioners on the VW Settlement Phase 1-Level 2 Charge Program; Staff is to research the questions brought up by Board members to include location and fees for further discussion at the January 20th Board meeting. Mr. Zehner also reviewed and discussed options to allow for continued Flexible/Temporary Outdoor Dining; after the Statement of Emergency is lifted, there is some flexibility; a Special Use Permit would allow businesses to continue at least through rest of the season. It was Board consensus to wait until nearing the end of the Statement of Emergency before looking further into the issue.

### ***Town Updates***

None

### ***Discussion Items***

#### *Continued Discussion and Update on N.C.G.S. 160D And Update Of UDO*

Ms. Wyatt explained that Planning staff has been working on the required update of the Unified Development Ordinance for consistency and conformance with the new NCGS Chapter 160D laws. As part of this update staff has been relying on guidance from a checklist issued by the North Carolina School of Government. Ms. Wyatt noted that not all the items on the checklist are required and some items will take less time to revise than others.

Ms. Wyatt provided the Planning Board with a brief presentation of the current status of the update including such things as replacing the term "conditional use permit" everywhere it appears with the new term "special use permit". Ms. Wyatt is also making changes to the definitions and updating any references to North Carolina general statute 160A, noting that the School of Government provided a type of appendix which has helped Staff with this task.

Ms. Wyatt noted that it would be a long and tedious process with Chair Vaughan agreeing that it seemed long and involved and looked like a lot of work.

The Board discussed the changes that must take place vs. the changes that may take place with Mr. Zehner noting that the goal was not to have any substantive changes.

Ms. Wyatt confirmed for Mr. Ferguson that the subject of conditional use zoning has come up several times and it has been discussed by the boards, but Staff has never been given the direction to pursue it. Mr. Zehner explained that a lot of the intent of 160D is to clarify what is a special use permit versus what is conditional zoning.

#### *December 30, 2020 Director's Report*

Mr. Zehner presented his Director's Report to the Board. This report was shared with the Commissioners at their January 6th Meeting. The report included updates on the VW Settlement Phase 1 - Level 2 Charging Program, Outdoor Dining and an update of the Review of Town Outdoor Lighting Regulations.

**Planning Board Members' Agenda**

None

**Planning Board Chairman's Agenda**

None

**Adjournment**

A motion to adjourn was made by David Elder. The time was 10:14 AM.

Respectfully submitted,  
Lily Campos Nieberding