
**Town of Nags Head
Planning Board
August 20, 2019**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, August 20, 2019 in the Board Room at the Nags Head Municipal Complex.

Chair Vaughan called the meeting to order at 9:00 a.m. as a quorum was present.

Members Present

Megan Vaughan, Kristi Wright, Mike Reilly, Meade Gwinn, Megan Lambert, and David Elder

Members Absent

Mark Ballog

Others Present

Michael Zehner, Kelly Wyatt, Holly White, and Lily Nieberding

Approval of Agenda

David Elder moved to approve the agenda be as presented. Meade Gwinn seconded the motion and it passed by unanimous vote.

Public Comment/Audience Response

There being no public comments, Chair Vaughan closed the Public Comment period.

Approval of Minutes

There being no changes to the minutes, Meade Gwinn moved that the minutes from the July 16th meeting be approved as presented. David Elder seconded the motion and it passed by unanimous vote.

Action Items

Consideration of a Conditional Use/Site Plan Amendment submitted by Michael Morway of Albemarle & Associates, Ltd. on behalf of John Harris, You Can Fly, LLC for substantial site improvements to Kitty Hawk Sports located at 7517 S. Virginia Dare Trail.

Chair Vaughan recused herself from hearing/voting on the item as she stated she has a general business relationship with Mr. Harris, owner of Kitty Hawk Sports; while she did not believe there was a conflict or effect on her ability to be impartial, she wanted to avoid any perception of a conflict. Vice Chair Kristi Wright took over as acting Chair for this portion of the meeting.

Deputy Planning Director Kelly Wyatt presented a Conditional Use/Site Plan Amendment submitted by Mike Morway of Albemarle & Associates, Ltd. on behalf of John Harris and U Can Fly, LLC for the purpose of redeveloping the site by constructing a 1,616 SF retail building with an accessory two-

bedroom apartment above in conjunction with operation of water dependent commercial outdoor recreational activities.

Ms. Wyatt presented a site plan of the property noting that it was non-conforming and explained that the proposed redevelopment would shift the existing structure into a more compliant location.

The existing land use is water-dependent commercial outdoor recreational uses and retail, and the property is zoned C-2, General Commercial District, and is located in the Commercial Outdoor Recreation Overlay District. Ms. Wyatt noted that the structure would be mixed use which would be in keeping with the 2017 Comprehensive Plan.

Ms. Wyatt proceeded to review the applicable zoning regulations as referenced in her staff memorandum dated August 20, 2019.

Based on their review Staff found that the proposal is consistent with the applicable use and development standards, as well as relevant land use policies and would recommend approval of the Conditional Use/Site Plan Amendment application as presented, with a condition that the appropriate agreement with the adjoining property owner be sought for use of shared sanitation facilities and that the site be developed in substantial compliance with the plans dated August 13, 2019, and the use shall be conducted consistent with all the commitments made by the applicant in their application.

Ms. Wyatt noted that she as well as Mike Morway were available to answer any questions for the Board.

Mr. Gwinn inquired about the proposed bike rack and asked if the shoulders allow enough room for people to actually bike on the causeway?

Ms. Wyatt explained that she was uncertain about the shoulder width and whether it's acceptable for a bike, but currently the way the Zoning Ordinance is written it would not prevent people from bike riding and there are no stipulations that there must be bike access.

Ms. Lambert noted that she has seen people biking on the causeway and over the bridge.

Ms. Wyatt confirmed for Mr. Reilly that she does not anticipate the need for the use of the alternate parking but noted that due to the uses that are currently there as well as the number of vacancies, there is seemingly available parking at Gone Coastal should it be needed.

Ms. Wyatt confirmed for Vice Chair Wright that the shared dumpster is adequate for their needs, based on discussion between the applicant, the adjoining property owner, and Public Works Director Ralph Barile.

Applicant Mike Morway addressed the Board and stated that they would be upgrading the size of the shared dumpster to 8 cubic yards and the smaller one (6 cubic yards) will be relocated to other side of the Gone Coastal property to make it more accessible to the restaurant that is currently there.

Vice Chair Wright called for discussion. Mr. Gwinn stated that he like and was in favor of the proposal. Ms. Lambert agreed noting the improvements in the stormwater measures.

David Elder moved to recommend approval of the Conditional Use/Site Plan Amendment as presented. Megan Lambert seconded the motion and it passed by unanimous vote.

Consideration of a proposed text amendment to the Zoning Ordinance/Unified Development Ordinance to eliminate the minimum lot size required for the development of "large residential dwelling" and/or address other aspects of this regulation.

This is a continuation of a discussion that began following consensus of the Board of Commissioners at their meeting on June 5, 2019 that Planning Staff work with the Planning Board to develop an amendment to the Zoning Ordinance to eliminate the minimum lot size requirement for Large Residential Dwellings.

The Planning Board first heard this item at their June Meeting and discussed the proposed amendment further at their meeting on July 16th.

As noted in the draft minutes for the July meeting, the Board was unanimous in their lack of support for any change to regulations concerning Large Residential Dwellings, including an alternative presented by Staff. The Board agreed to discuss the amendment further at their meeting on August 20, 2019 to allow consideration of a written recommendation to the Board of Commissioners opposing any amendment.

Planning Director Michael Zehner explained that he prepared a recommendation for the Board based on the Planning Board's previous discussions. The proposed text amendment offers two Options. Option A would remove the minimum lot area for large residential dwellings entirely (which is consistent with what the BOC directed Staff to prepare), while Option B would reduce the minimum lot size from 16,000 sq. ft. to 15,000 sq. ft., but cap the maximum habitable area for such dwellings on lots less than 16,000 sq. ft. at 4,000 sq. ft. The proposed text amendments include a recommendation from the Planning Board that the Board of Commissioners take **no action** on the proposed amendments. The recommendation also includes the opinion of the Planning Board that the proposed amendment is inconsistent with the Comprehensive Plan and additional points for consideration as noted in Mr. Zehner's memorandum last updated on August 15, 2019.

Mr. Reilly inquired if a homeowner wanted to build a larger house on a smaller lot, is there a way they could do that. Mr. Zehner explained that the possibility of a variance would need further consideration, that a Large Residential Dwelling may technically be a use that would not allow for a variance; Mr. Zehner noted that if a variance were possible, that the applicant would have to prove a hardship and that would probably be difficult.

Mr. Gwinn acknowledged that staff captured their concerns very well and that "Point #1 says it all", the reason for the change, or the problem intended to be addressed is not apparent and "it still isn't apparent"; Staff did a good job capturing the sentiment and rationale for their decision.

Chair Vaughan concurred noting that it was "ironic" especially after recent discussions on ADUs and concerns about density.

Mr. Zehner explained for Ms. Vaughan and the Board that he offered Option B as an alternative that the Commissioners had maybe not considered and believes the conversation might benefit from having a perspective in the middle, "some kind of compromise".

Chair Vaughan acknowledged that the reduction to 15,000 had been previously discussed in 2003 and offers some proportionality but "it's not going to solve whatever problem they don't know exists".

Ms. Lambert stated that the only indicator she could find is that the current requirement is "outdated" but noted that "there are a lot of policies that were written in 2003 and without reviewing and scrutinizing every single one, this makes no sense".

Chair Vaughan agreed stating that "there are several ordinances that may be outdated but it doesn't mean that they are not still worth something". Chair Vaughan further stated that "it's a huge change" and that she was "shocked at the scope of what it would be to eliminate it".

Ms. Wright agreed stating that "it's just not in line with the Comprehensive Plan".

After some further discussion, Mike Reilly moved to recommend denial of the proposed text amendment as presented, accepting the recommendation as drafted by Staff. David Elder seconded the motion and it carried unanimously.

Report of Board of Commissioners Actions

Planning Director Michael Zehner provided a brief overview of actions pertaining to the Planning Board that were taken by the Board of Commissioners at their meeting on July 3, 2019:

1. Public Hearing to consider adoption of the proposed Unified Development Ordinance (UDO) – Adopted.
2. Public Hearing for consideration of a conditional use/site plan amendment submitted by Ray and Christina Jamieson to convert a vacant commercial structure into an Indoor Entertainment Facility, OB-Xscape Rooms, located at 4125 S. Croatan Highway – This item was withdrawn by the applicant and no Public Hearing was conducted.
3. Following the Conditional Use/Site Plan Amendment approval for the construction of a platform, finger piers and associated mooring pilings to accommodate four (4) transient boat slips at Millers Waterfront Restaurant, 6916 S. Croatan Highway, the Town Manager requested authorization by the Board of Commissioners to request that Wildlife Resources analyze and determine if a "No Wake Zone" can be established in the vicinity of Millers Restaurant – Authorization was given to formally request the No Wake Zone Designation via Wildlife Resources and to eliminate the condition imposed upon the applicant via the conditional use approval granted to Millers Restaurant.
4. Public Hearing to consider a zoning ordinance text amendment pertaining to Accessory Dwelling Units "ADU's" within the Town was scheduled for the September 4, 2019 Board of Commissioners meeting.
5. Public Hearing to consider a zoning ordinance text amendment to regulate multi-level deck platforms within the Town was scheduled for the September 4, 2019 Board of Commissioners meeting.
6. Update on Building Permit Status

Town Updates

None

Discussion Items

Continued Discussion of Affordable/Workforce Housing Study.

Mr. Zehner explained that at their meeting in July, the Planning Board discussed and agreed to have Staff write a letter to the Board of Commissioners that would outline the Planning Board's position and encourage the Commissioners to support the further study of affordable and workforce housing within the Town. Based on their discussion, Mr. Zehner drafted a letter to the Commissioners on behalf of the Planning Board Chair which he presented to the Board as part of his memorandum dated August 15, 2019.

In his memorandum, Mr. Zehner noted that Staff has had several meetings related to and focusing on affordable and workforce housing including a meeting with Jamie Bond of OBX ISOP (International Student Outreach Program) and representatives from Rotary, Dare County Public Services, and Don Cabana, now former Director of Dare County Transit, where transit options for both the J-1 Visa student workers and the general workforce were discussed, and a meeting with representatives from the Outer Banks Chamber of Commerce where affordable and workforce housing was discussed, in general.

Additionally, Staff has coordinated a meeting later this month with Mrs. Bond, with invitations extended to planning staff for Dare County and the Towns of Duck, Kill Devil Hills, Kitty Hawk, Manteo, and Southern Shores; the primary focus of this meeting will be potential transit opportunities discussed at the July 31 meeting.

Staff would encourage the Board to continue to discuss their thoughts and perspectives on affordable and workforce housing, perhaps providing input on potential transit opportunities that could alleviate issues associated with the location of housing in relation to jobs, as well as stakeholder groups that should be engaged as part of any broader study of housing issues.

Ms. Lambert stated that the Outer Banks Visitors Bureau needs to be brought into the discussion. Mr. Zehner agreed noting that housing, employment, and economic development are all interrelated, especially now that they are proposing re-development of the Soundside Event Site.

Ms. Lambert stated that they (Visitors Bureau) posted that it (Event Site) would bring over 170 jobs to the area which might take away jobs from small business and put a further strain on workforce housing. It is important that they be looped in (to the discussion) because of the amount of funds they could possibly spend on a solution.

Mr. Elder inquired if there ever has been a Pay Study done to find out what is the minimum wage needed to live on the Outer Banks? This issue affects housing and should be put on the table as part of the discussion. It is great to bring in jobs, but they also need to see how much money will employees be making, and can they afford housing?

Chair Vaughan agreed, noting that whenever a serious study about housing is undertaken, income is one of the first things that should be looked at.

Mr. Zehner agreed stating that it's important that they localize that data as much as possible, narrow it down to eastern Dare County rather than the mainland to ensure that the data is not skewed.

Mr. Elder stated that many people work two or three jobs in order to be able to be able to afford to live here.

M. Zehner stated that the Census will be coming up soon and now is the time for public education and to build awareness to encourage people to take the census.

Planning Board Members' Agenda

Mr. Elder discussed the Bike Rack incentive and stated that it's one thing to promote and encourage people to bike to and from work but it's another thing to ask people to bike to and from an unsafe location. It's important to discuss biking safety issues as part of Traffic planning with DOT as well as improving bike and pedestrian access. Mr. Zehner agreed noting that the Commissioners have discussed this as well and may be talking about it further at their next retreat.

Planning Board Chair's Agenda

Chair Vaughan asked if there were any further updates related to golf carts. Mr. Zehner stated that Planner Holly White found some legislation that might allow communities to regulate golf carts and staff will be researching further.

Ms. Lambert suggested reaching out to someone like Ocean Atlantic Rentals to see if what kind of regulations, if any, they provide.

The Board also discussed parking and increased density related to carts.

Chair Vaughan requested that the Board and Staff keep this issue on the radar as there are definitely safety issues and as the popularity increases it will only become more of an issue.

The Board agreed that they need to stay proactive about this issue.

Adjournment

There being no further business to discuss, a motion to adjourn was made by David Elder. The time was 10:06 AM.

Respectfully submitted,

Lily Campos Nieberding