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**Town of Nags Head  
Planning Board  
September 17, 2019**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, September 17, 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, Megan Lambert, and David Elder

***Members Absent***

Mark Ballog, Meade Gwinn

***Others Present***

Michael Zehner, Holly White, and Lily Nieberding

***Approval of Agenda***

David Elder moved to approve the agenda be as presented. Megan Lambert 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, David Elder moved that the minutes from the August 20th meeting be approved as presented. Kristi Wright seconded the motion and it passed by unanimous vote.

***Action Items***

*Re-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, Nags Head. The scope of work includes construction of a new principal retail structure with accessory 2nd story residential, additional parking areas and new observation deck and boardwalk. This scope of work is considered to be a major modification to the previously approved conditional use/site plan and therefore must be reviewed via the conditional use process. The property is zoned C-2, General Commercial and is located within the Commercial Outdoor Recreation Overlay District. This item is being reconsidered due to revised parking information.*

Chair Vaughan recused herself once again from hearing/voting on the item as she had previously noted that she has a general business relationship with Mr. Harris, owner of Kitty Hawk Sports. Ms. Wright took over as Chair for this item. Vice Chair Kristi Wright took over as acting Chair for this portion of the meeting.

Planning Director Michael Zehner presented and reviewed the revised site plan which had previously come before the Board at their last meeting. Mr. Zehner explained that the original site plan depended on a shared dumpster and a shared parking agreement with the adjoining neighbor. Subsequently the applicant and the adjoining property owner were not able to maintain that agreement, so the applicant had to amend their application to include a revised location for a dumpster and to ask for a reduction of parking requirements. The project calls for a total of 40 parking spaces; a reduction of two (2) spaces has been requested via the use of bicycle racks thereby reducing the required onsite parking to 38 spaces. A total of 38 spaces have been provided onsite. This will only be deemed compliant if the Board of Commissioners accepts the proposed reduction of two parking spaces via the use of bicycle racks. In this case, other than the standard roadway shoulder, there are no bicycle or pedestrian facilities providing access to the property. While, it would not mitigate concerns entirely, Staff would recommend that the applicant construct a multi-use path along the entirety of the property's frontage; this improvement would be consistent with the goals of the Nags Head Pedestrian Plan and would further the implementation of the Plan. Based on this, Staff is recommending approval with an associated condition.

Mike Morway of Albemarle & Associates addressed the Board. Mr. Morway stated that the applicant had been caught off guard when the adjacent neighbor pulled the shared agreement that had been in place. The applicant is anxious to get the project underway and Mr. Morway thanked Staff for helping to keep them on schedule. Mr. Morway noted that the site plan had not changed much from the last time it was presented. He worked with Public Works Director Ralph Barile on the location of the dumpster.

Mr. Reilly noted that he drives by the property often and has never seen the parking lot full. Mr. Morway confirmed that he was at the site several times during the height of the summer and while there were several cars there, the parking lot was never full. Mr. Morway noted that they are proposing more parking than what was already there and have always proposed the bicycle parking as an alternate parking option as they were aware that the shared parking agreement was something that could be revoked at any time for any reason.

Mr. Morway discussed the multi-use path contingency and noted that it would be difficult to accommodate a bike path in front of the property. There is currently a 4-foot shoulder which is what most of the commercial properties in that area (South of Jockey's Ridge) rely on for biking/pedestrian access. Behind the shoulder is some type of infiltration trench which was installed by NC DOT a while back to promote drainage along the causeway. Mr. Morway left messages with NC DOT to get feedback but had not yet heard back. Mr. Morway stated that he has reservations about installing a path when there is uncertainty regarding where to best to locate it and their ability to meet the Town's buffering requirements.

Mr. Zehner stated that staff would not object to the multi-use path being on the property rather than on the right of way.

Mr. Zehner confirmed for Ms. Lambert that Staff would not be supportive of the reduction in parking with the bike racks without the bike path along the frontage.

Mr. Morway confirmed for Mr. Elder that there is inter-connectivity between the two parking lots.

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Mr. Zehner confirmed that there is a plan in the upcoming year for continuance of the multi-use path going from Danube to Tanger Outlets; the long-term plan is that it continue along the causeway.

Jim Selckmann owner of Gone Coastal (the adjacent property) addressed the Board. Mr. Selckmann has lived and worked on the causeway for 30 years and sees everything that happens there. Mr. Selckmann is concerned about the location of utilities in the ROW. Mr. Selckmann stated that he is a big advocate of the multi-use path as he is very concerned about biking/pedestrian safety issues on the causeway. While Mr. Selckmann appreciates the work that's been done on the site plan, he revoked the shared parking and dumpster agreement because of multiple issues related to the shared parking. Mr. Selckmann noted that they (the applicant) have a tour boat and want to add another one; he is concerned about the parking issues that will follow. For these reasons, Mr. Selckmann is not in favor of the proposed site plan.

Mr. Zehner confirmed for Mr. Selckmann and the Board that the size and use of the building is what determines parking requirements.

Ms. Lambert noted that her only concern about the proposed plan was the location of the multi-use path. If the applicant wants a reduction in parking based on bike racks, the applicant needs to figure out a place to put the multi-use path.

David Elder moved to recommend approval of the revised site plan contingent on Staff's recommendation. Mike Reilly seconded the motion and the motion passed unanimously.

*Consideration of a Site Plan for the development of the Jacob Street Public Beach Access to include parking, ADA accessible elevated wooden ramp, observation deck and stairs to the beach.*

Mr. Zehner presented a Site Plan Amendment Application submitted by the Town for the development of Jacob Street as a Public Beach Access to include concrete drive aisle, with Turfstone parking stalls, stormwater management measures, wooden walkway and ADA compliant ramp, observation deck, shower and stairs to the beach. These improvements will be partially funded through a grant from the North Carolina Division of Coastal Management.

The property is located in South Nags Head at 0 E. Jacobs Street, the Zoning Classification of Property: R-2, Medium Density Residential Zoning District. The Flood Hazard Zone of Property: VE 11; the regulatory flood protection elevation is 12 ft. MSL. The proposed elevation of the first floor is shown on the site plan at 13.5 ft.

Staff finds that the proposal is consistent with the applicable use and development standards, as well as relevant land use policies. Staff recommends approval of the site plan as presented.

Mr. Elder discussed the need for improved emergency access in that area and suggested possibly re-orienting accessibility to better meet the needs of Ocean Rescue/Public Safety. Mr. Elder also discussed the difference between handicap accessible overlook vs. actual handicap access out to the beach. Mr. Elder noted that re-orienting the accessibility lengthwise along the property would also save green space. Finally, Mr. Elder suggested ensuring that there be a lifeguard stand close to the improved beach access.

Mr. Zehner stated that he would review Mr. Elder's suggestions with Public Safety as well as with the Town Engineer to see if they can be incorporated into the proposed site plan.

David Elder moved to recommend approval of the proposed site plan conditioned upon his comments above.

Mike Reilly requested to amend Mr. Elder's motion, to recommend approval of the site plan with comments for consideration rather than conditions. Mr. Elder accepted the amendment of the motion. Ms. Lambert seconded, and the motion passed unanimously.

### ***Report of Board of Commissioners Actions***

Planning Director Michael Zehner provided a brief update of the Commissioner Actions taken at yesterday's BOC meeting noting that the Commissioners approved the consent agenda which scheduled the Public Hearings for the U Can Fly site plan as well as the Large Residential Dwelling amendments for the October Meeting. There were also three Public Hearings: Proposal for future improvement of Islington Beach Access; Public Hearing to consider a zoning ordinance text amendment to regulate multi-level deck platforms – the Commissioners agreed with the Planning Board and voted to prohibit them throughout the town; Public Hearing to consider a zoning ordinance text amendment pertaining to Accessory Dwelling Units "ADU's" within the Town – was not adopted by the Commissioners.

### ***Town Updates***

Mr. Zehner stated that Staff had received a preliminary sketch plan for a subdivision, that will come before the Planning Board in October for development of Southridge Phase 6 (18 lots) located on the bypass between the Post Office and Nags Head Church. Mr. Zehner noted that staff is reviewing the sketch plan using both the current ordinance as well as the UDO.

Mr. Zehner confirmed for Chair Vaughan that they are looking at some dates for Public Workshop regarding the UDO as well as creating a development manual.

### ***Discussion Items***

#### ***Continued Discussion of Affordable/Workforce Housing Study.***

As noted in Mr. Zehner's Staff memorandum dated September 13th, the letter from Chair Vaughan, on behalf of the Board, encouraging and recommending a broader and more comprehensive study of affordable and workforce housing issues within the Town, was sent to the Mayor and Board of Commissioners on August 19th. Additionally, Staff did meet on August 27th, with Jamie Bond of OBX ISOP (International Student Outreach Program) and Rotary, Don Milbrath and Carl Classen also representing Rotary, representatives of the Outer Banks Chamber of Commerce, and planning or administrative staff for Dare County and the Towns of Duck, Kill Devil Hills, Kitty Hawk, Manteo, and Southern Shores; the primary focus of the meeting was the potential for transit opportunities to service the J-1 Visa student workers and the general workforce.

There are no immediate actions anticipated, but further discussions are expected to take place. Mr. Zehner noted that yesterday (September 16<sup>th</sup>) the Dare County Board of Commissioners held a Special Meeting to discuss alternatives in order to address affordable housing.

Ms. Lambert stated that it is an important issue they need to stay on top of and expressed concern that if minimum lot size is reduced the Town is going to see even more of a reduction on affordable housing.

Chair Vaughan agreed and encouraged Board Members to continue to discuss the topic with their friends and neighbors and raise awareness about the need for workforce/affordable seasonal and year-round housing.

Mr. Zehner reminded that the Board that the Town does have funds and will be explore housing opportunities for the Town's own seasonal workforce.

The Board briefly discussed deed restrictions and how that could play into the development of affordable housing.

#### Continued Update/Discussion of Use of Golf Carts Within the Town

The use of street-legal golf carts has been a topic of discussion at the Board's last two meetings and Mr. Zehner updated/reiterated some information previously emailed to the Board.

As noted in Mr. Zehner's Staff Report dated September 13<sup>th</sup>, there are two types of golf carts: those regulated as golf carts, which the Town can and does restrict from operation on Town streets, and those regulated as Low-Speed Vehicles, which are subject to registration and restriction by the North Carolina Department of Motor Vehicles (DMV).

Golf carts that are Low-Speed Vehicles, in addition to being registered with the DMV, have a plate and VIN number, and safety equipment, such as lights and seatbelts, while a standard golf cart would not have these features. It is only these Low-Speed Vehicle golf carts that they should see operating on the Town's streets.

The Town's Police Department can enforce against Low-Speed Vehicle golf carts not being operated and/or maintained in a compliant manner (as well as standard golf carts operating on Town street in violation of local ordinances). Beyond enforcement of existing regulations, Staff does not believe the Town has the authority to further restrict the operation of Low-Speed Vehicle golf carts.

Mr. Zehner noted that as the Board previously discussed, it may be necessary to consider specific parking arrangements for golf carts during the design of parking areas and the Board's review of projects.

#### Continued Update/Discussion of Electrical Vehicle Charging Stations

At the Planning Board meeting on June 18th, the Board discussed an interest in trying to encourage the placement of additional charging stations for electric cars in the Town and Staff presented information on plug-in electric vehicles (PEVs) and the necessary charging station infrastructure, sometimes referred to as electric vehicle supply equipment (EVSE), at their July Meeting. The Board discussed and agreed that this was an important issue and supported the Town being proactive.

Principal Planner Holly White noted that there were a few key issues discussed at the meeting requiring follow up and wanted to update the Board with what she had found:

1. Staff is able to easily insert information on the Town's website and social media outlets on EVSE. Staff will work to complete this in the coming month. Staff has also reached out to the Outer Banks Visitors Bureau and requested that EVSE information be placed on their website.
2. Incentives for businesses - Staff initiated contact with Plug-In NC and the NC Clean Energy Technology Center at NC State to research possible incentives being utilized by other communities in North Carolina. Staff has not received any follow up information from these sources at this time. Staff will share any additional information with the Planning Board as it is made available.

Planning Board members suggested waiving permit fees and expediting permits as an incentive. Permits for charging stations are an administrative approval and would require a zoning and building permit. As long as applicants had a complete application and necessary supplemental information, turnaround time is minimal. Waiving permit fees would have to be approved by the Board of Commissioners. Staff can follow up with the Board of Commissioners if desired by the Planning Board, however, it may be more appropriate to address this as part of a Sustainability Action Plan staff will be working on in the coming months.

3. Staff has initiated contact with Dominion Power but is still awaiting a follow up call with additional information. Staff will share any additional information with the Planning Board as it is made available.
4. Staff has initiated contact with Jennette's Pier and found that while there were EVSEs on the site plan, but they were never installed.
5. Staff initiated contact with Plug-In NC and the NC Clean Energy Technology Center at NC State to research usage fees as well as tax credits but has not received any follow up information at this time.
6. Ms. White spoke with the Tanger Management, Kate Creef and is following up with the company, Charge Point, that installed and oversees the charging station. Ms. Creef indicated that there have been little to no maintenance issues with the charging stations and will be providing a usage report for the EVSE station at Tanger early next week. She noted that she did not observe a great deal of usage during normal operating hours but had been surprised at the amount of usage during "off hours".

### ***Planning Board Members' Agenda***

Ms. Lambert inquired about deed restrictions with respect to affordable housing, and also whether any greater allowance of Large Residential Dwellings could be tied to affordable housing. Mr. Zehner stated that it's something that Staff would have to research and explore further.

Mr. Elder discussed the recent power issues along the Causeway due to the recent Hurricane and inquired about the possibility of burying powerlines.

### ***Planning Board Chair's Agenda***

None

### ***Adjournment***

There being no further business to discuss, a motion to adjourn was made by Megan Lambert. The time was 10:33 AM.

Respectfully submitted,

Lily Campos Nieberding