
**Town of Nags Head
Planning Board
October 15, 2019**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, October 15, 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 Mark Ballog

Members Absent

David Elder, Meade Gwinn

Others Present

Michael Zehner, Kelly Wyatt, Holly White and Lily Nieberding

Approval of Agenda

Kristi Wright moved to approve the agenda be as presented. Mike Reilly seconded the motion and it passed by unanimous vote.

Public Comment/Audience Response

Chair Vaughan called for Public Comment,

Nags Head property owner Barbara Ayars, 301 Driftwood Street, spoke against the conditional use application submitted for 300 Driftwood Street. Ms. Ayars stated that the neighborhood is surrounded by full time residents. She understands that the area known as Gallery Row is zoned for small businesses such as art galleries, small stores and restaurants, however she is concerned about the property turning into an entertainment venue. Of particular concern are the intended hours of operation, litter, noise, lack of parking, code enforcement, flooding and stormwater management. Ms. Ayars is concerned that this type of business (event site) would change the nature of the neighborhood; the neighbors don't want it and she does not feel that it is compatible with the Comp Plan's vision for the Gallery Row district.

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

Approval of Minutes

There being no changes to the minutes, Mark Ballog moved that the minutes from the September 17th meeting be approved as presented. Megan Lambert seconded the motion and it passed by unanimous vote.

Action Items

Sketch Plan Review Submitted by Quible & Associates on behalf of Outer Banks Hospital for the demolition of the existing 3,000 square foot Urgent Care building located at 4923 S. Croatan Highway and a 10,400 square foot expansion of the Radiation Therapy Building located at 4927 S. Croatan Highway, Nags Head.

Planning Director Michael Zehner explained that now that the Unified Development Ordinance (UDO) is effective, he would be presenting a sketch plan review package for the Outer Banks Hospital Cancer Center. The properties are located at 4923 S. Croatan Highway, 4927 S. Croatan Highway, 4922 S. Passage Way, 4926 S. Passage Way, and 4928 S. Passage Way, and total 1.45 acres.

The proposal involves the demolition of the existing 3,000 square foot urgent care building at 4923 S. Croatan Highway, the construction of a 10,400 square foot addition to the existing 4,500 square foot radiation therapy building, to house an infusion center, and the development of parking and stormwater improvements.

Mr. Zehner presented an architectural rendering of the site and explained that the sketch plan proposal provides for three (3) alternative parking schemes, with Option 1 providing a compliant number of parking spaces based on a parking rate consistent with a Dialysis Center use versus a general Medical Office use, Option 2 requiring a reduction in required parking based on a Medical Office parking rate by providing bike racks and requesting a Conditional Use Permit, and Option 3, also based on a Medical Office parking rate, requiring a reduction in required parking by providing bike racks and requesting a Conditional Use Permit to modify turnaround space and loading zone dimension requirements.

Mr. Zehner noted that everything else Staff reviewed in terms of dimensional requirements, setbacks, height and landscaping requirements is compliant with all three plans. Staff has not received comments from Public Works or the Town Engineer, etc. but noted that the sketch plan was forwarded to the different departments for their preliminary review. In general Staff believes the plan complies, the only question remaining is there any preference with respect to the parking.

Mr. Zehner discussed Option 1 in further detail and reviewed for the Board the definition of a Dialysis Center vs. Medical Office as noted in the Ordinance. Mr. Zehner then reviewed a document submitted by the Applicant, "Parking Requirements for Outpatient Cancer Care Centers".

Mr. Zehner confirmed for Mr. Reilly that the use is permitted but they are looking for the Board to give the applicant feedback not just on the parking issue but also on the proposed plan: architecture of the building, access to the property, layout of the site, landscaping, etc.

Cathleen Saunders with Quible & Associates addressed the Board on behalf of the applicant. Ms. Saunders reviewed the parking options in more detail noting that Options 1 and 2 work better for the applicant. Unlike the current Urgent Care, this facility would have scheduled appointments only, no walk-in traffic. Those appointments would generally take a few hours. Within the facility they have 10 infusion bays, so only 10 patients can be seen at any time. They can only have up to 13 people in the waiting room and a total of 15 employees, so they are expecting no more than 38 people in the facility at any given time. They would prefer more green space to more parking area.

Ms. Saunders confirmed for Mr. Zehner that if they went with Option 1 and later found that they needed more parking they could add 12 additional spaces on the drive aisle.

Amy Montgomery with The Outer Banks Hospital confirmed for Ms. Wright that sometimes patients do have someone drive them or accompany them to infusion or radiation appointments.

Ms. Montgomery addressed the Board and explained that the Outer Banks Hospital is committed to providing compassionate cancer services. They currently offer all these services, but the goal is to bring them all under one roof and provide one convenient location for patients to receive all the necessary services. The hospital really wants this to work and they are open to the Board's feedback.

Ms. Montgomery confirmed for Chair Vaughan that the largest load they would receive would be a small van for the delivery of linens; they do not foresee large deliveries or large trucks coming to the site.

Ms. Montgomery also confirmed that they are looking to have two medical providers at the facility that would have offices and exam rooms to see patients there. The proposed hours for the facility would be Monday through Friday from 7:30 am to 5:30 pm.

Ms. Montgomery stated that she has talked with some of the adjacent property owners on Passage Way. In general, they are in support of the Cancer Center and mostly concerned about thru traffic. They prefer to have the center and parking rather than have additional rental properties to compete with. Ms. Montgomery confirmed that patients would access the new facility the same way they currently access the Urgent Care facility.

Ms. Montgomery confirmed for Chair Vaughan that the Hospital is looking to relocate the Urgent Care facility and are currently looking at properties within the Town.

Ms. Saunders confirmed that after speaking with the adjoining neighbors they did not add an accessway from Passage Way and stated that the adjacent area will have a heavily landscaped buffer. Ms. Saunders also pointed out that the medical offices will be in the existing building which is currently parked at a medical office rate.

Ms. Lambert noted that she has experience going to AMU for infusions and noted that they are very scheduled and will not likely have a large influx of cars; infusions take several hours. Ms. Lambert also stated that she liked the idea of having more green space rather than an empty parking lot.

Ms. Wright noted that the building seems to fit well in that area.

Mr. Reilly agreed with Ms. Lambert stating that he did not like the idea of sacrificing green space for unused parking.

Chair Vaughan asked if there was the possibility of unused parking spaces with any of the three options. Mr. Zehner stated that there seems to maybe be excessive parking on Options 2 and 3. Mr. Zehner suggested a possible condition to do a third-party parking assessment 6 months, then 12 months after CO with the possibility of providing up to 12 additional parking spaces if necessary.

Chair Vaughan likes the idea of having a cancer center and all under one roof, she stated the sketch looks great and there are a lot of positive aspects so the Board needs to do what they can to make it happen.

After some further discussion, the Board all agreed that they support the site plan with Option 1 for parking with a 6-month and 12-month post-CO parking review.

Consideration of a Conditional Use Application Submitted by David and Connie McGlaughon to convert the former Copper Mermaid Art Gallery to a small event venue with residential. The request also involves a request for a parking reduction via the conditional use process. The property is zoned C-2, General Commercial and is located at 300 Driftwood Street, Nags Head.

Deputy Planning Director Kelly Wyatt presented a Conditional Use Application submitted by David and Connie McGlaughon to convert a former art gallery with residential (formerly Sally Huss Gallery then Copper Mermaid) to a small event venue with residential, and to modify parking requirements. The property is located at 300 E. Driftwood Street and is zoned C-2, General Commercial Zoning District. Ms. Wyatt noted that the intended use for the venue would be weddings, but it could ultimately be used for any type of event.

Ms. Wyatt explained that the Comprehensive Plan Future Land Use Map classifies this property as Neighborhood Commercial and it is additionally located within the Neighborhood Commercial Activity Node and the Gallery Row Activity Node. Ms. Wyatt outlined these classifications in further detail in her Staff Report dated October 15, 2019 and included in the agenda packet. Museums and galleries are preferred in this area but also allows for a variety of neighborhood-oriented uses including but not limited to office, retail, personal services, even cottage courts and small boutique hotels.

Ms. Wyatt proceeded to review the applicable Zoning Regulations:

Within the table of uses, Indoor Public Assembly is listed as a permitted use. If this were simply a change of use this site would not have had to come before the Board. The residential component is also a permitted use. However, Ms. Wyatt noted that this site has multiple principal uses, so while the intent is to operate them together, the residential and commercial uses could operate independently. This aspect as well as the fact that the applicants are seeking a parking reduction is what make it a conditional use. Multiple principal uses may be established within a single commercial structure or unit by conditional use approval provided the use is a listed permitted or conditional use within the district in which it is located.

No more than two (2) principal uses shall be located within any one structure or unit at any given time. Staff found the site to be compliant.

All uses within the single commercial structure or unit, both principal and accessory shall be managed and under the control of a single party. Staff found the site to be compliant.

Total allowable lot coverage for this site is 55%. While no additional covered areas are proposed at this time, existing coverage total 37.4% and is compliant.

The height of the existing structure will be unchanged. The requested change of use and parking reduction does not trigger architectural compliance however the existing structure does have numerous desirable architectural elements such as cedar shake siding, porches, beauty bands and column trim.

Per the UDO, parking requirements for each principal use shall be calculated separately based upon the standards applicable to each use. There are two single-family dwelling units onsite, one of which is a four (4) bedroom unit, the other is a five (5) bedroom unit. This would require a total five (5) parking spaces be allocated to the residential use. The parking standard for "Indoor Public Assembly" is one parking space per 55 square feet of customer area. The applicant has indicated that they will have approximately 1,110 square feet of area available to customers. This requires a minimum of

twenty (20) parking spaces to be allocated to the indoor public assembly use. In total, 25 parking spaces are required onsite; 16 parking spaces currently exist onsite.

Based upon the applicant's description of the use as a small event venue, whether it is for a wedding or another type of event, a portion of the attendees of the event would be staying in the onsite residential units. Staff suggests that the Planning Board discuss the option to reduce the required parking by the five (5) required residential parking spaces so as not to double park attendees.

In any case, the applicant will be short the minimum required number of onsite parking spaces, either by nine (9) spaces or four (4) spaces. The applicant is proposing to mitigate this parking deficiency by securing the required number of parking spaces at an off-site location. Pastor Tony Facenda of Still Waters Baptist Church has provided an informal acknowledgement of the use of the church parking area for off-site parking needs. This is documented in an email; however, Planning Staff recommends that the applicant obtain a more formal agreement.

Ms. Wyatt confirmed for Chair Vaughan that Still Waters Church is about 300 feet from the site.

Ms. Wyatt explained that while this use of off-site parking does not meet the requirements of Section 10.15.4, Off-site Parking to Meet Use Requirements in that parking would not be the only use of the off-site lot (Still Waters Baptist Church is the principal use), staff does believe this agreement could and should be taken into consideration as part of the applicants request to modify parking requirements under the allowances.

In addition to a formal agreement for shared parking, Staff would recommend that a condition be imposed requiring a parking attendant to be utilized for all events held on the property.

The change of use and parking reduction request does not trigger buffering/landscaping compliance; however, it appears the site is currently in compliance.

No additional lighting is proposed at this time. Should additional lighting be desired in the future the required photometrics and fixture information will be required for review and approval prior to permit issuance.

No additional signage is being proposed at this time. The applicant intends to reface the existing freestanding sign and understands that any additional signage will require subsequent review and approval.

The applicants have been in discussions with the Dare County Health Department to determine if the onsite septic system is adequate for the proposed use. Ms. Wyatt stated that Mr. McGlaughon may have an update on this.

Stormwater management measures and traffic flow are unchanged from previous approvals. At this time the applicants have not proposed any additional impervious coverages or deviations to the existing traffic pattern for this site.

The project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance.

Approval of the proposed plan by the Public Works Department will be required prior to consideration of this item by the Board of Commissioners at their December 4, 2019 meeting. The Public Works Director has indicated that a 4 cubic-yard dumpster will likely be required for this site. Given the

uncertainty of the number of events and the amount of refuse they will create, the applicants are currently discussing other options for receptacles with Bay Disposal. An approved receptacle must be proposed prior to Board of Commissioners consideration.

Staff recommends approval of the Conditional Use Application as presented contingent upon:

- 1) Submission of a formal agreement with Still Waters Baptist Church for the use of their parking area to mitigate off-site parking demands related to the operation of the event venue;
- 2) The use of a parking attendant during events to assist in parking and directing attendees to available parking;
- 3) Signage shall be provided onsite directing any overflow parking to the appropriate parking area.

Ms. Wyatt spoke to Ms. Ayars' previous comments/concern regarding off-site parking and noted that Deputy Police Chief Perry Hale had also expressed similar concerns. Ms. Wyatt confirmed for Chair Vaughan that if necessary, the Police Department would add signage prohibiting parking along the Driftwood and Memorial Ave rights-of-way.

- 4) An approved refuse receptacle be provided onsite in a manner acceptable to, and approved by, the Public Works Director.

Ms. Wyatt presented for the Board's review the as-built survey, elevation certificate for the property and proposed floor plan. Ms. Wyatt suggested that the Board may want to inquire about potential hours of operation and discuss any concerns about outdoor events.

Ms. Wright inquired if Staff knew exactly how many houses around that area are already being used as wedding event sites. Ms. Wright noted that there are many homes around Town that are being used for that purpose. Ms. Wyatt was unsure of the number as the Town does not regulate single family dwelling event homes.

Ms. Lambert expressed concern/questioned dumpster location and noted that a trash truck needs to be able to access the site and dumpster location.

Ms. Wyatt confirmed for Ms. Lambert that the requirement of a parking attendant would be verified/enforced through Code Enforcement or the Police Department.

Chair Vaughan asked about the Ordinance as it relates to noise and outdoor events. Ms. Wyatt noted that the Town does have a noise ordinance; there are maximum sound levels between 7 am to 11 pm and 11 pm to 7 am. As with any situation, events, parties, etc., noise concerns would be complaint driven.

Mr. Zehner confirmed that they could apply for a permit to exceed the noise levels, the Town Manager has discretion to grant that. Mr. Zehner confirmed that because it's a conditional use the Board could stipulate that they never be granted an excessive noise permit.

Chair Vaughan noted that when talking about parking they need to also look at vendor parking.

Applicant David McGlaughon addressed the Board. He and his wife have been here for about 35 years; they have three children and two of their daughters were married here on the Outer Banks. Helping plan and pay for those weddings led them to realize there is a need for smaller event facilities for those who don't want a large wedding. At one time they considered renting out the site as a seasonal rental but thought this was a better use of the property. His wife has met with the head of

the Wedding Association, as well as two wedding coordinators that have a lot of experience, and they gave them a lot of good advice, comments and suggestions. A pre-approved wedding coordinator will be required to be at each event. The wedding coordinator will be aware of all Town regulations, including parking and noise regulations. They will have a contract with anyone wanting to have a wedding there.

Mr. McGlaughon discussed trash disposal with Bay Disposal who indicated they can provide a sufficient number of cans to equal a 4 CY dumpster, so they won't need a dumpster or pad. They will arrange to drop them off as well as pick them up once the event is over.

Mr. McGlaughon also stated that he had met with Rob Crawford, Dare County Environmental Health and he had stated that he would have something from them in writing in about a week. Based on Mr. Crawford's preliminary calculations, the site can accommodate up to 49 guests at one time. Mr. McGlaughon stated that their plan is to host events for 40 to 45 people.

Mr. McGlaughon noted that they talked with several adjoining neighbors and received mostly positive comments. There were some that expressed concerns but there were also those that were supportive. Mr. McGlaughon stated that directly behind the property (northern boundary) there is a large buffer and behind that two vacant lots. The site is a corner lot so there are no immediate neighbors to the west.

Mr. McGlaughon also noted that there is currently an unused one-car parking garage that could be used for vendor parking.

There is a lot of vegetation on the site which they believe makes it ideal for an outdoor wedding. They are envisioning 10 to 15 events a year, so they don't believe that parking, noise and other concerns will be a big issue for most of the year. Mr. McGlaughon added that the residences can accommodate up to 16 people and their plan would be that those staying at the houses would move their cars to the off-site parking to free up spaces for guests the day of the event.

Mr. McGlaughon stated that they "want this work for everybody"; they want to do it in a way that is going to be acceptable and pleasing to the community as well as profitable for their family.

They will have the event hours as part of the contract that they sign, and the wedding coordinator will ensure that the contract is followed. Mr. McGlaughon also noted that for the foreseeable future they will have a family member at the site during events to ensure that things are being done properly. Mr. McGlaughon reiterated that it will be a family run business and they will make sure that it complies with all Town requirements and does not bother the neighbors.

Ms. Wright suggested that Mr. McGlaughon figure out how they would accommodate a large catering truck as those are generally used even for smaller type events. Mr. McGlaughon stated that the unused garage could accommodate a catering van and trailer. Ms. Wright also suggested that the applicant figure out where they would park people in the event of a Sunday wedding as the church would most likely not be available on those days.

Mr. Reilly suggested that they consider having a golf cart to shuttle people from the off-site parking area.

Mr. Ballog and Mr. McGlaughon discussed the placement of a possible tent and where it could go since most of the backyard is the septic drainfield and repair area. Mr. McGlaughon confirmed that they would not be providing a tent.

Ms. Lambert stated that she lives in that area and noted that the Church parking lot is often full, especially during the summer due to different church events. Ms. Lambert asked if they had any other options for parking in case of scheduling conflicts. Mr. McGlaughon stated that they could explore if other businesses might be possible offsite parking alternatives, even if they are further away.

Ms. Wright stated that she believes they will get more than the 10 to 15 events that they are envisioning. Mr. McGlaughon stated that if they were to book more events than they first envisioned they would consider other options, especially if they saw that it was causing issues or concerns.

Ms. Wright noted that they need to allot for more parking spaces especially for vendors such as the minister, caterer, florists, photographer, etc.

Mr. McGlaughon confirmed for Ms. Lambert that they would have someone there in addition to the wedding coordinator to ensure that they are meeting the Town's regulations.

Mr. Reilly expressed concern that they are relying too much on the applicant's good intentions.

Ms. Lambert agreed with Mr. Reilly stating that there are a few unknowns including trash and vendor parking.

Mr. McGlaughon confirmed for Chair Vaughan that the trash receptacles would be brought in the day before the event and removed the day after the event.

Mr. McGlaughon envisions the cost of rental to be \$7500 – \$9000 which includes the use of both houses for a week as well as the reception. Mr. McGlaughon confirmed that they envision the wedding ceremonies to be held outside and the receptions inside.

Chair Vaughan stated that she felt the Board was not ready to make a decision on the application. She stated that she was not totally opposed to it but would want to have an official parking agreement in place, the final health department approval and a back-up parking option. Chair Vaughan does feel that the use is compatible with District but stated that the applicant needs to flush out some of the unknowns, including a place for a catering truck and vendor parking.

After some further discussion the Board agreed to table the item for a month.

Report of Board of Commissioners Actions

Planning Director Michael Zehner provided a brief update:

Public Hearing to consider the conditional use/site plan amendment for substantial site improvements to Kitty Hawk Sports was postponed to the November 6th, 2019 Board of Commissioners meeting.

Public Hearing to consider proposed text amendments to the Unified Development Ordinance to eliminate minimum lot size required for the development of large residential dwellings – the Board accepted public comment and passed a motion to continue the Public Hearing to the November 6th, 2019 Board of Commissioners meeting.

Consideration of a Site Plan for construction of public beach access improvements at Jacob Street – the Board passed a motion to approve the Site Plan as presented.

Town Updates

None

Discussion Items

Discuss and consider amendments to Off-street Parking Requirements regarding bicycle parking and Conditional Use Permits.

Mr. Zehner explained that at the Board of Commissioners' Retreat on September 12, the Board and Staff discussed perspectives with regard to the reduction of required parking. The discussion focused on the reduction of parking based on the provision of bicycle parking, as well as the reduction of parking by Conditional Use Permit; also discussed was whether, in certain circumstances, bicycle parking should be a requirement.

Following the discussion, the Board directed Staff to work with the Planning Board to consider amendments to the Unified Development Ordinance ("UDO") that 1) made the reduction of parking based on the provision of bicycle parking a Conditional Use Permit and took into consideration whether sites had access to bike-friendly routes, 2) standardized findings for all parking-related Conditional Use Permits, and 3) established minimum standards for required bicycle parking.

At least with respect to items 1 and 2, Section 10.15, Alternative and Reduced Commercial Parking Requirements, provides the applicable provisions. As it pertains to item 1, currently this section does not require a Conditional Use Permit. Given this, it could be viewed as a performance-based standard, where a reduction is entitled if the standards are met; however, the reduction is qualified in that "the Board of Commissioners may allow" the total parking requirement to be reduced.

With regard to item 2, while there are four (4) types of parking-related Conditional Use Permits under Section 10.15, only one, Section 10.15.6., Modification of Parking Requirements by Conditional Use Permit, provides specific findings that must be met, in addition to those that are standard for all Conditional Use Permits.

Finally, with respect to item 3, there is currently no minimum requirement for bicycle parking. The Board could consider a requirement that at least one bike rack be added when a parking lot has a certain minimum number of parking spaces (for example, 10), and further, only when the property is located along S. Virginia Dare Trail, accessible from a street or streets providing access to S. Virginia Dare Trail without having to access S. Croatan Highway, or located along S. Croatan Highway and a sidewalk/multi-use path is along the frontage of the property.

Mr. Zehner would encourage the Board to think about and discuss these items and provide feedback to Staff for the preparation of draft amendments to be considered at a future meeting.

Mr. Reilly discussed scooters and asked if the possibility of allowing the use in the future could be revisited and intertwined with discussions about parking requirements if there was a place to put them.

Mr. Zehner noted that it was a good point but stated they also have to recognize that people use cars to get here and tend to be tied to their vehicles. The town needs to balance that, while also ensuring that facilities are designed so that if people want to walk or bike they can do so.

Chair Vaughan noted that cars and where to park them are a big issue as the Board has seen at this meeting.

Mr. Zehner noted that with regard to the bike parking reduction the general concern is that there should maybe be more discretion. The Board needs to decide if they are comfortable with the way it is or if there should be more standards such as only for properties on the beach road or other bike accessible areas. Should it be allowed by right for certain areas or should it only be allowed by Conditional Use?

Chair Vaughan stated that this issue is something they discussed when reviewing the Causeway project as well as the Hospital proposal; Chair Vaughan noted she likes the flexibility.

Mr. Zehner stated they could look at limiting it to specific uses such as retail or restaurants vs. medical offices.

Chair Vaughan stated she personally likes the idea of requiring bike parking.

The Board agreed that this requirement should include beach accesses. The Board also discussed accommodating future improvements.

Mr. Zehner stated that Staff can come back with some options for further discussion next month.

Planning Board Members' Agenda

None

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 11:18 AM.

Respectfully submitted,

Lily Campos Nieberding