
**Town of Nags Head
Planning Board
September 20, 2022**

The Planning Board of the Town of Nags Head met on Tuesday, September 20, 2022, 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, Molly Harrison, Meade Gwinn, Megan Lambert, David Elder, Gary Ferguson

Members Absent

Kristi Wright

Others Present

Kelly Wyatt, Kate Jones, David Ryan, Andy Garman, Lily Nieberding

Approval of Agenda

Chair Vaughan asked for a motion. Meade Gwinn moved to approve the agenda as presented. David Elder seconded, and the motion passed by unanimous vote.

Public Comment/Audience Response

None

Approval of Minutes

Chair Vaughan asked for a motion to approve the minutes of the August 16, 2022, meeting. David Elder moved to approve the minutes as presented; Meade Gwinn seconded, and the motion passed unanimously.

Action Items

Special Use/Site Plan Review submitted by Michael Strader, P.E. of Quible & Associates, P.C. for the construction of a Trade Center. The property is zoned C-3, Commercial Services and is located on Lot 2a of the Charles L. Sineath Subdivision (PIN# 989317113533), vacant lot directly behind TW's Bait and Tackle.

Planning Director Kelly Wyatt presented a Special Use/Site Plan Review submitted by Quible & Associates, PC. on behalf of Mazzi LLC for the purpose of constructing a 11,200 square foot building that includes 8 units operating as a "Trade Center", with parking and all associated site improvements.

Ms. Wyatt presented the proposed site plan and noted that the property is currently vacant, and is zoned C-3, Commercial Services Zoning District. The property is located in an X Flood Zone, however,

per the Town of Nags Head local ordinance, the property is subject to an RFPE/LES of 9 ft. The proposed first floor of the trade center is 11 feet MSL and is therefore compliant.

Ms. Wyatt noted that "Trade Center" is a Special Use within the C-3, Commercial Services District, with supplemental regulations set forth in Section 7.72:

- 7.72.1. Each individual unit may contain an office/sales area; however, this area shall not exceed twenty-five (25) percent of the gross floor area of the unit.
- 7.72.2. Each individual unit shall at a minimum contain a commode, shower facility and lavatory.
- 7.72.3. All work conducted on-site shall be entirely within the enclosed structure.

The proposal consists of eight (8) 1,400 square foot units. Approximately 14% of each unit is dedicated to office use and restroom facilities. The remaining area is dedicated to parking area and storage. Sheet A1.1 of the submittal package shows the floor plan for the units; a toilet and sink has been shown in each unit.

With regard to the requirement for each unit to contain a "shower facility", staff reviewed the minutes from the Planning Board and Board of Commissioners meetings in 1988 in hopes of gaining insight on this requirement. Unfortunately, there was no discussion in the minutes related to the shower requirement. Given the nature of the trade center use, where one may be working with, exposed to, or come into contact with injurious corrosive materials it seems fitting that eye wash stations and safety showers would be required to allow for quick drenching and flushing of the eyes and body in emergency situations. Staff has requested that prior to consideration by the Board of Commissioners, accommodations be made to provide shower facilities within each unit.

Ms. Wyatt stated that with regards to the third condition, the applicant noted in the site narrative included in the packet that there will be no outdoor display areas or storage of materials.

Ms. Wyatt then proceeded to review the applicable zoning regulations:

- Section 8.6.6.4 of the UDO sets forth allowable lot coverage within the C-3, Commercial Services district as it pertains to the developments distance from the Fresh Pond AEC. This property is not located within the Fresh Pond AEC.

Proposed impermeable surfaces on this site are 44.8% and therefore compliant.

Proposed permeable surfaces on this site are 3.9% and therefore compliant.

As proposed, over 44% of the site is retained in open space and therefore compliant.

- The maximum allowable building height within the Town is 35 feet. The applicant has proposed a structure with an overall height of 20'-5", therefore height is compliant.
- Section 10.82 of the UDO, Applicability, states that Commercial Design Standards shall not apply to projects located within the C-3, Commercial Services Zoning District.
- Pursuant to Article 10, Table 10-2, Required Parking by Use, Warehouse/Light Industrial, Trade Centers shall provide parking at one (1) parking space for each 750 gross square feet of floor area in each unit, but no less than 3 parking spaces per unit. With eight (8) units proposed, a total of 24 parking spaces is required. A total of 24 parking spaces has been proposed therefore parking is compliant. Note that the applicant has proposed 14 of the parking spaces to be interior to the trade center and as such the building will be designed to provide fire suppression.

With regard to the loading zone requirements, Ms. Wyatt explained that Section 10.17.1. sets forth the requirements for the number and type of loading zone required based upon the use. This section also states, "A loading space need not be necessarily a full berth but shall be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the use. The Town Engineer shall determine the sufficiency of loading space but in no case shall the use of such space hinder the free movement of vehicles and pedestrians over a street, sidewalk, parking lot or alley".

The applicant has requested that consideration be given to a reduced loading and unloading zone. Based upon the anticipated use and building size, the applicant is requesting a 12' x 30' dedicated loading zone. The applicant anticipates limited product pick-up and delivery with deliveries expected to include UPS and FedEx.

Section 10.92.14.4 of the UDO, Surface Materials, requires a minimum of twenty (20) percent of the surface area of the parking area and drive aisles to be constructed of permeable surface material. The applicant has proposed developing approximately 70% of the exposed surface area of the parking area in a permeable surface material.

- Several sections of the Unified Development Ordinance speak to Buffering and Landscaping as it applies throughout this proposed site and the site is compliant with these sections.
- A lighting plan compliant with the requirements of Article 10.37.1 of the Unified Development Ordinance will be required prior to the issuance any development permits. In addition, a light audit will be required prior to issuance to occupancy permits. Staff is currently reviewing the lighting information submitted with this Special Use application.
- No signage is being proposed at this time; however, any signage will need to be reviewed and approved prior to installation.

The applicant is currently working with the Dare County Health Department for wastewater approval. This authorization will be required prior to consideration by the Board of Commissioners.

Traffic circulation has been reviewed and approved by the Town Engineer as presented.

Stormwater management has also been reviewed and approved by the Town Engineer with a condition that the roadway swale on the west side of the proposed driveway apron be extended to the western property corner.

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 building will be sprinkler protected and the structure design will meet the appropriate fire ratings as required.

The Public Works Director has reviewed and approved the proposed site plan as presented.

Staff finds that the proposal is consistent with the applicable use and development standards, as well as relevant land use policies.

Ms. Wyatt noted that during Sketch Plan Review there were questions concerning the types of uses that would be permissible within the proposed units. As the property is located within the C-3, Commercial Services Zoning District, only those uses permitted within this district would be allowed. Furthermore, only uses that meet the intent of the Trade Center use would be permitted.

Ms. Wyatt reviewed the definition of Trade Center as "a *structure containing two or more individual units, primarily devoted to service and wholesale operations and the storage of materials for off-site work.*"

Ms. Wyatt stated that she reviewed Section 6.6, Table of Permitted Uses and Activities, and found some examples of uses allowed in the C-3 District that are representative of the uses that would be permitted noting that it was not a comprehensive list: Carpet Installation, Fire Safety Equipment Services, Locksmiths, Real Estate Rental Management Facility, Security System Services, Wallpaper Installation, Water Well Drillers Services, Assembly and Packaging of Articles, Canvas, Fabric and Upholstery, Electrical Equipment storage. Ms. Wyatt also pointed out that automobile repair is not a permissible use in the C-3 District and would not be permitted as part of the proposed "Trade Center" uses.

Based upon Staff's review of the proposal and conditioned on the Town Engineer's requirement that the roadway swale on the west side of the proposed driveway apron be extended to the western property corner, staff recommends approval of the Special Use/Site Plan Review as presented.

Applicant Mike Strader of Quible & Associates addressed the Board and stated that the applicant was amenable to all of Staff's conditions including the incorporation of the shower facilities and extension of the swale. Mr. Strader also noted that they should have their Wastewater approval prior to the Board of Commissioners meeting.

Mr. Gwinn asked about their plans for treating sewage. Mr. Strader stated that they were proposing an on-site low-pressure pipe wastewater system that will have bi-annual inspections.

Megan Lambert moved to recommend approval of the Special Use/Site Plan Review; David Elder seconded and the motion passed by unanimous vote.

Special Use/Site Plan Review submitted by the Town of Nags Head for the redesign and construction of various Public Works facilities as a result of the Public Works Facilities Master Plan. The properties involved are zoned C-3, Commercial Services and located at 2110 S. Pond Avenue and 2200 S. Lark Avenue.

Ms. Wyatt introduced the item noting that Town Engineer David Ryan would be presenting and answering questions via Zoom.

This is a Special Use/Site Plan Review submitted by Consultant Oakley Collier on behalf of the Town of Nags Head. The project consists of the redesign and construction of the Town's public services facilities. These properties are being developed under a common design scheme.

Ms. Wyatt reminded the Board that they had previously seen this as part of the Sketch Plan Review Process.

The property is located at 2110 S. Pond Ave. & 2200 and 2208 S. Lark Avenue. The properties are zoned C-3, Commercial Services Zoning District.

Ms. Wyatt noted that the property is located in an X Flood Zone, per the Town of Nags Head local ordinance, the property is subject to an RFPE/LES of 9 ft. The proposed first floor of all of the proposed structures is at or above 12 msl and is therefore compliant.

This property is located within the Fresh Pond 500 foot buffer so they are looking at the same regulations as the previous items with regards to permeable pavement and permeable surfaces and open space. There are portions of it that are beyond 500 feet and Ms. Wyatt stated there's compliance in all of those areas.

The maximum allowable building height within the Town is 35 feet; as proposed, all structures affiliated with the redesign are well below 35 feet in height and therefore compliant.

Like with the previous item, architectural design is not required. There is excess parking for what's actually required.

Buffering/Landscaping: Where proposed parking is shown adjacent to the Lark Avenue right-of-way a compliant 10-foot-wide buffer yard with the appropriate number of plantings has been proposed. There are also several areas where existing vegetation will be preserved.

Any new lighting will have to meet Town standards.

The Town is currently working with the Dare County Health Department for wastewater approval and should have it in hand prior consideration by the Board of Commissioners.

Traffic and Stormwater have been reviewed and approved by Town Engineer David Ryan.

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 Public Works Director has reviewed and approved the proposed site plan as presented.

Staff finds 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 Special Use/Site Plan Review as presented.

Town Engineer David Ryan addressed the Board via a Zoom presentation and provided a brief summary of the Public Works Master Plan. Mr. Ryan first presented for the Board a survey showing the existing site improvements. Mr. Ryan pointed out the existing septic system that services the main Public Works building as well as the location of the one that services the water plant.

Mr. Ryan then presented a new site plan of the proposed development noting that nothing had changed on the site plan since the Board first saw the proposal during the Sketch Plan Review phase however the submittal now included floor plans as well as building elevations.

Mr. Ryan stated that they have been working on getting the plans ready to put out to bid and anticipates that to occur within the next several weeks.

They have submitted for State permitting and have received three out of the five permits; these include Stormwater permits as well as a Major Permit from the Division of Coastal Management. They are waiting to receive Dare County Septic Health authorization to construct two new additional septic systems.

Mr. Ryan confirmed for Mr. Ferguson that the Town has submitted for a CAMA Major Permit but have not yet received it.

Chair Vaughan stated that she thought the proposal looked good and was excited (about the proposed improvements).

Mr. Gwinn noted that his original concern had been about the proximity to Fresh Pond and protecting that source of water but noted that he was satisfied that they had taken all of that into consideration.

Town Manager Andy Garman confirmed for Mr. Elder that there are currently no plans to use the currently unimproved right-of-way (Mallard) other than possibly using it for access to the site during construction.

Molly Harrison moved to recommend approval of the Special Use/Site Plan Review; Megan Lambert seconded and the motion passed by unanimous vote.

Report on Board of Commissioners Actions – August 3, 2022

Ms. Wyatt gave an update on recent Board of Commissioner Actions, of note: several employee recognitions including a life saving award – Ms. Wyatt encouraged to Board members to check out the You Tube recording; Ms. Wyatt presented her monthly report; The Board adopted the Fourth Street improvements resolution with one modification to the language – Ms. Wyatt noted that these are the lots that are just south of Coastal Villas; the Board agreed to the pilot program initiative for reflective signage for addresses as presented – and enthusiastically endorsed Code Enforcement Officer’s Chris Trembly’s proposed project using the old green street signage to convert into reflective addresses for the oceanfront and the Beach Road/SOIR; finally there was a discussion of grants - it was Board consensus to agree with staff’s request and to move forward with the grant applications as presented.

Town Updates

None

Discussion Items

Whalebone Park Update, NC Parks Accessibility for Parks grant program application.

Deputy Planning Director Kate Jones gave an update on the Whalebone Park project. Ms. Jones reminded the Board that staff has been working on Whalebone Park redevelopment plans and had submitted a grant application to the North Carolina Parks and Recreation Trust Fund (PARTF) for funding in May 2022 however that application was not successful. Staff has since identified another grant opportunity, also with the Parks and Recreation Trust Fund (PARTF), called the Accessibility for Parks (AFP) grant, which provides \$10 million for parks and recreation grants to benefit children and/or veterans with disabilities in North Carolina.

Ms. Jones provided a timeline for the grant as part of her Board memorandum.

Ms. Jones noted that since the focus of this funding opportunity is on accessibility, the spray play area is a logical match. This area is designed to be enjoyed by families and individuals of varying abilities. The creation of such an amenity in Nags Head would further support the Town’s 2017 Comprehensive Plan adopted policy that charges the Town with serving residents and visitors of all ages and physical abilities through increased availability of universally accessible and age-appropriate recreational facilities.

The proposed spray play area design remains the same as the previous site plan. However, in consultation with our PARTF representative, staff made slight changes to the overall site plan, which should result in a higher score.

Ms. Jones reviewed the main changes from the previous site plan which include the relocation and resurfacing of the volleyball court, and the shift from sand play to stand alone play “domes” which are considered universally accessible.

Mr. Gwinn asked if there was any room for a Pickle ball court. Ms. Jones noted that there could be room, but the focus of this park is headed toward small children which was the direction the Board wanted to take.

Ms. Jones confirmed for Ms. Lambert that the grant they are applying for would be for \$250,000. They will be asking the Outer Banks Visitor’s Bureau for a grant for the restrooms.

Ms. Lambert suggested that thought be given to Business Sponsorship opportunities, maybe buying pieces of equipment or other park elements. Ms. Jones stated that it was certainly something they could discuss.

Ms. Lambert asked which direction the Board had decided to go with regards to the type of Spray & Play. Ms. Jones stated that they had received direction to move forward with the Pass -through system. It is a simpler system which uses potable water, so it doesn’t need to be treated, no chemicals. The plans include an option to reuse the water for irrigation.

Ms. Jones confirmed for Ms. Lambert that someone could have one installed at a residence with the proper permits, but lot coverage requirements would limit the size.

Planning & Development Directors Report, August 31, 2022.

Ms. Wyatt briefly discussed her Director’s Report to the Board which included: important meetings of note, update on a BOA variance which was ultimately handled via an Administrative Adjustment; an update on the DWMP/Voluntary Septic Subscription Service – The first meeting of the working group was held Tuesday, August 30; an upcoming workshop at the CSI – an opportunity for local town managers to discuss different programs occurring within different towns, Nags Head will be discussing the Septic Health Program; Resilient Coastal Communities – currently in progress; EV Action Plan - Staff has received input on electric vehicle facilities from the Town of Kill Devil Hills, the Town of Kitty Hawk and the Town of Southern Shores, Ms. Wyatt also requested input from the Planners List Serv and she and Mr. Gwinn are in the process of synthesizing this feedback; NC AIA Activate Technical Assistance – the Residential Energy and Water Conservation Guide is finalized, and staff is working on putting it out to the public, Staff is also identifying options for making this guide interactive; LID Stormwater Demonstration Project – the Town Hall rain garden is thriving, and most notably Staff recently discovered monarch caterpillars devouring the milkweed; an update on the Hazard Mitigation Plan; and an update on Dowdy Park events.

Ms. Jones gave the Board a quick update on the Estuarine Shoreline Management Plan - Staff gave the consultant three sites to consider: Harvey site, OBVB site and Soundside Road area and has asked them to look at those areas broadly and to come up with something they can submit for the public areas to a NOAA grant which might soon become available.

Planning Board Members' Agenda

The Board members discussed several items. Of note: Mr. Elder inquired about the Bladen St beach access which is the historic site (war grave) of the Huron wreck where 94 people died. Mr. Garman stated that they have been working on a redesign of the exhibit. Ms. Harrison discussed new Septic technology and wondered if it is allowing for denser development? Ms. Jones noted that Zoning dictates development more than septic, specifically lot coverage regulations. Mr. Ferguson and the Board discussed the R1 Historic District which was a major topic of conversation during Public Comment at the most recent Board of Commissioners meeting.

Planning Board Chairman's Agenda

None

Adjournment

A motion to adjourn was made by David Elder. The time was 10:37 PM.

Respectfully submitted,
Lily Campos Nieberding