Town of Nags Head
Planning Board
April 19, 2016

The Planning Board of the Town of Nags Head met in regular session on Tuesday, April 19, 2016 in the Board Room at the Nags Head Municipal Complex.

Chairman Mark Cornwell called the meeting to order at 2:30 p.m. as a quorum was present.

Members Present

Mark Cornwell, Ben Reilly, Clyde Futrell, Kate Murray, Mike Siers, Jim Troutman, Pogie Worsley

Members Absent

None

Others Present

Andy Garman, Kelly Wyatt, Lily Nieberding

Approval of Agenda

There being no changes to the agenda, Clyde Futrell moved that it be approved as submitted. Jim Troutman seconded the motion and it passed by unanimous vote.

Public Comment/Audience Response

None

Approval of Minutes

There being no changes, Pogie Worsley moved that the minutes be approved as presented. Jim Troutman seconded the motion and it passed by unanimous vote.

Action Items

Consideration of a Conditional Use/Vested Right request submitted by VHB Engineering on behalf of Dare County Tourism Board for modifications to the previously approved site plan and conditional use permit for the Outer Banks Event Site, located at 6800 S. Croatan Highway.

Deputy Planning Director Kelly Wyatt explained that Chris DeWitt of VHB Engineering, as well as architect Ben Cahoon, were in attendance on behalf of the Dare County Tourism Board. As the Tourism Board moves forward into Phase II improvements for the Event Site, they are requesting an amendment to the originally approved site plan to accommodate a reorientation of the pavilion structure. In doing so, an alternative parking standard is also being requested. In addition, a Vested Right Approval is being requested to allow a greater time frame for initial construction.

Ms. Wyatt explained that the previously approved site plan from 2014 had been modified to reflect a slightly different layout for the pavilion structure. At the time of original site plan approval, the specifics of the pavilion had not been determined; it was likely to be an open-air structure. Upon re-submittal, the pavilion is now proposed to be elevated above the Regulatory Flood Elevation and fully enclosed and conditioned.

Ms. Wyatt noted that the use has not changed and that lot coverage remains well within compliance.

The maximum building height for the structure as proposed, based upon the roof pitch of 12:12, is 42 ft. measured from the Regulatory Flood Elevation. The height of the proposed structure is just over 34 ft. Height is compliant however a height certificate will be required prior to issuance of Occupancy Permits to ensure full compliance.

A total of 125 architectural design points as required by Section 48-371 of the Town Code is necessary for the proposed structure. A total of 125 design points have been proposed through the use of porches, wood shingle siding and a pitched roof structure. Therefore the architecture is compliant with the design guidelines.

With this change, a parking standard has now been imposed which exceeds the amount of parking previously approved on-site. The applicant intends to apply an alternative parking standard to the site recognizing the unique nature of the proposed use and the way in which parking will be managed for events.

Ms. Wyatt stated that Town Code Section 48-165(f) does allow an applicant to request a modification to the parking requirement via conditional use approval. The applicant has provided a Parking Narrative for consideration that addresses many, if not all, of the questions/findings noted in Section 48-165(f)(3).

Staff feels this use now aligns with the parking standard for "Indoor Public Assembly or Indoor Event Space, not associated with a Hotel". This same standard was applied to Jennette's Pier for their second floor. This parking standard is as follows: *One parking space per 55 square feet of customer area. Customer area includes seating area, lounges, decks, porches and patios, but excludes stairs, stair landings, handicapped ramps, restrooms and areas not open to the general public.* Applying this standard to an 18,000 plus square foot area would require upward of 320 parking spaces. Based upon the overall function and design of this site, Planning Staff is in agreement with the applicant that meeting this standard would be excessive.

Ms. Wyatt stated that in order for the modification of parking requirements to be granted there are five findings that must be demonstrated.

Staff would submit that, based upon the variety of events to be held at the Outer Banks Event Site, the applicant has adequately shown that all levels and intensities of events can be safely accommodated and parked either on-site or with coordinated efforts for off-site parking.

Ms. Wyatt noted that landscaping is compliant; lighting changed slightly but that has also been reviewed and approved by Planning Staff. No additional signage is being requested at this time.

Town Engineer and Project Coordinator David Ryan reviewed Stormwater Management; his comments were addressed on an e-mail correspondence dated 4/15/16. Mr. Ryan also reviewed and approved Traffic Circulation.

The project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance. Comments from the Fire Department were addressed on an e-mail correspondence from Deputy Fire Chief Shane Hite dated 4/15/16; Ms. Wyatt noted that Deputy Fire Chief Shane Hite was present and could answer any questions for the Board.

Planning Staff finds that the project is consistent with the proposed use and development standards. Additionally, Planning Staff finds that the existing improved and unimproved parking provided onsite is adequate for the type and style of events likely to be held at the Outer Banks Event Site.

Staff recommends approval of the Vested Right/Conditional Use/Site Plan Amendment request conditional upon compliance with conditions set forth by the Town Engineer and the Deputy Fire Chief in their respective e-mails.

Mr. Futrell inquired as to what might go underneath of the elevated structure. Ms. Wyatt noted they are planning on bringing in fill material to elevate the area to allow access to the pavilion for Boat Shows and other similar events.

Chris DeWitt with VHB Engineering gave a brief presentation to the Board which included what was built during Phase I construction and what changes were being proposed for Phase II.

Mr. DeWitt confirmed for Ms. Murray that they were proposing irrigation and an irrigation plan was included with their proposal.

Mr. DeWitt confirmed for Mr. Worsley that they are bringing in about two feet of fill.

Mr. DeWitt confirmed for Mr. Reilly that they were not proposing a permanent stage for outside concerts as most groups like to bring their own, however there will be a stage for indoor performances and the "porch" area could be used for smaller outdoor events.

Mr. DeWitt reviewed the Stormwater Management Plans and stated that there is a system of low areas of vegetation to retain water as well as most of the walkways and parking areas are pervious concrete so all stormwater will be retained on-site. Mr. DeWitt also confirmed for Ms. Murray that there is irrigation on-site in case of drier periods. They are also planning on installing cisterns under the pavilion for rainwater to use for irrigation as well.

Chair Cornwell inquired as to who was responsible for providing excess parking in case of large events such as the Seafood Festival. Mr. DeWitt explained that the Outer Banks Tourism Board has that responsibility built into the agreements that they sign with the event organizers.

Mr. DeWitt confirmed for Chair Cornwell that they will have addressed the conditions noted by the Town Engineer and the Fire Department prior to the Board of Commissioners meeting.

Clyde Futrell moved to recommend approval of the Conditional Use/Vested Right request. Jim Troutman seconded the motion and the motion carried by unanimous vote

Consideration of amendments to the Town's Sign ordinance to ensure content neutral language and regulations pertaining to residential freestanding signage.

Deputy Town Manager/Planning Director Andy Garman explained that last month, the Planning Board and Board of Commissioners met in a joint workshop with local realtors to discuss the issue of freestanding residential signage. This issue was originally referred to the Planning Board in April of

2015 due to concerns over the proliferation of permanent real estate signs along the beach road and associated impacts on community appearance. As a result of the joint workshop, the Board of Commissioners appointed a subcommittee to reach consensus on how these signs should be regulated. Two Planning Board members – Pogie Worsley and Mike Siers, Commissioner John Ratzenberger, and three representatives from the real estate industry – Meghan Vaughan, David Pergerson with Resort Realty and Dan Hardy with Joe Lamb Realty met on March 31st and agreed to forward the following recommended ordinance modification to the Planning Board.

The subcommittee reviewed requirements for residential signage based on criteria for height, size, location and number of signs. It was agreed that the freestanding residential signage size limit should be reduced from six square feet to three square feet. The size limit will not include a frame constructed of 2'x4' or 4'x4' framing materials. Additionally, the height will be limited to 36 inches above grade measured to the top of the sign. The signs should be located in a manner which does not obstruct visibility from vehicles entering and exiting driveways. No specific setback requirement was established for these signs. For existing signs not meeting the aforementioned criteria, there will be an amortization date of January 1, 2019. Additionally, all new signs erected after the adopted date of the ordinance shall comply with these standards. It was reiterated that this signage allowance is only for properties where principal structures are located more than 100 feet from the front property line. In addition to the freestanding residential signage allowance, properties in single-family use may also have a sign attached to the dwelling up to six square feet in area. It was noted that once the amortization takes effect, six square foot freestanding signs may be relocated to the wall of the building.

The subcommittee also discussed non-commercial identification signs erected by property owners. It was agreed that the new ordinance should allow property owners to have up to one freestanding sign in this category not to exceed three square feet in area. Property owners may also have one wall mounted non-commercial identification sign not to exceed six square feet in area. Currently, the ordinance allows one non-commercial identification sign not to exceed two square feet in area and does not specify where it can be placed.

Finally, the subcommittee agreed that the height limit for freestanding residential signs, including temporary signs, should not exceed 36 inches above grade measured to the top of the sign. This would include signs placed on properties actively listed for sale or under construction.

Mr. Garman stated that the proposed ordinance has been modified in various locations to reflect the recommendations. The ordinance has also been modified to include content neutral regulations; this language was previously presented to the Planning Board in December of 2015. In addition, Staff has now received input from the Town Attorney on the draft ordinance and changes have been incorporated throughout the ordinance to reflect his suggested revisions.

In addition, Mr. Garman noted that the Local Business Committee reviewed a number of changes to the Town's sign ordinance last year with the goal of improving the business climate and appearance of the town. An additional recommendation to rooftop signage regulations has been incorporated into the ordinance based on input from this committee. Mr. Garman briefly reviewed those changes for the Board.

Bob Oakes with Village Realty inquired how the committee had reached consensus on reducing the size of the signs. Planning Board/Committee member Mike Siers stated that it was actually Dan Hardy who had suggested the size of the sign.

Mr. Garman explained that there was a lot of discussion but ultimately it was a Board directive to look at number of things related to signs, including size and to look for alternatives.

Mr. Oakes noted that it seemed that not reducing the size was not an option and was not in agreement with the committee recommendation.

Mr. Reilly inquired about section 48-7 (4) non-commercial signs and questioned if house identification signs could be seen as being used for advertising rental houses; is some clarification needed?

Mr. Garman stated that historically house identification signs have been viewed as non-commercial since the signs do not have a corporate logo, just the name of the house.

Chair Cornwell suggested that Mr. Garman get further clarification on this from the Town attorney.

Mr. Futrell reminded the Board that aesthetics means different things to different people. Mr. Garman stated that aesthetics is something that needs to be further defined by the Board of Commissioners.

Chair Cornwell inquired why "For Sale" signs were allowed to be 6 square feet. Mr. Garman stated that this language had not changed; it is what is currently allowed by the ordinance.

Mr. Worsley stated that there was a lot discussion on this when the committee met; "For Sale" signs are considered to be a temporary sign and therefore they did not change the size, he would suggest that they leave it alone.

Chair Cornwell inquired about "Agent on Duty" signs; Mr. Garman stated that these are also considered temporary signs; "Open House" signs are currently allowed to be 6 feet. No changes are proposed to the size requirements, just content neutral language.

After a brief discussion on flags and commercial flag signs, Pogie Worsley moved to recommend approval of the proposed amendments to the Town's Sign Ordinance. Kate Murray seconded the motion and the motion carried unanimously.

Report on Board of Commissioners Actions

The Public Hearing for the proposed zoning ordinance text amendment to list "municipally-owned recreation facilities" as a permitted use within the C-2, General Commercial Zoning District, was scheduled for the May 4th, 2016 meeting.

Town Updates

Town Planner Holly White gave a brief update on Focus Nags Head. The advisory committee has met several times during the course of six months and there has been a lot of good discussion and consensus. A map of Nags Head was reviewed and the committee identified several character areas. A community meeting was held on March 8th and feedback was received on the committee's work to date. Three main suggestions came out of that meeting; these included: 1) identifying South Nags Head as a character area, it should not lumped in with other neighborhoods; 2) recognizing the significance of Nags Head Woods and; 3) the desire for the plan to be something that the Board and Staff uses to move things forward and for it not to sit on a shelf.

Ms. White stated that they are working with the consultants to do further stake holder interviews with Board Members and Staff. The consultants are also working on drafting some policies that will be reviewed by the advisory committee.

Ms. Murray inquired if there had been a report from NC Sea Grant. Ms. White stated that a draft document related to Sea level rise was sent to staff. Staff has reviewed it and has had a follow up conference call with them. Staff requested some changes before they present it to a subcommittee.

Chair Cornwell asked what Ms. White would anticipate being the Planning Board's first action when it comes to Focus Nags Head. Ms. White stated that the Board would be asked to give feedback on the draft policy document. Ms. White hopes that the policies will come in sections for the Board's review.

Ms. White encouraged the Board to give her feedback via e-mail on any policy concerns that come up or issues related to the land use plan.

Mr. Garman gave an update on Dowdy Park. They have had three meetings with a small group to refine the park design. They now have a final draft design, which will be presented to the Commissioners at a special meeting on Friday at 1:30pm. They want to finalize the design so they can start working on bids. They have had some preliminary meetings with Trillium who provided through a grant a significant amount of money for the project. Staff hopes to present the site plan to the Planning Board in May and go to the Commissioners in June. Mr. Garman plans to put the project out to bid in June and possibly begin construction by July. Mr. Garman invited any interested Planning Board members to attend Friday's BOC meeting.

Mr. Garman stated that they were given a tight timeline by the Trillium grant and there is no room in the schedule for multiple reviews. They need to stick to the intent of Master design plan, which the Commissioners approved last spring. Mr. Garman stated that there have been no major changes from the Master plan.

Discussion Items

Discussion of Cottage Courts as permissible uses within the Town.

Mr. Garman explained that during the last year the Planning Board and Board of Commissioners have reviewed regulations pertaining to cottage courts. For the past 30 years, cottage courts had been considered a nonconforming use by the Town's ordinance. Therefore, no expansions to these properties have been allowed except for general maintenance and repairs. Modifications to the ordinance last year now allow staff and the Board of Commissioners to approve repairs, additions and expansions to existing cottage court properties. However, cottage courts were not removed as a nonconforming use. Consequently, it is still not possible to develop a new cottage court within the town except as allowed in the cluster housing provisions which were approved in the C-2 zoning district in late 2014. In these cases, only existing nonconforming lots of record may be recombined to create a cluster housing development and this is allowed under very specific circumstances.

During the course of working on revisions to the Town's land use plan and zoning ordinance (Focus Nags Head), there has been much discussion about diversity of accommodations. One main goal expressed is to improve the variety of accommodations within the town, including transient uses such as hotels and cottage courts, to provide more opportunities for short-stay visitors. While the Town has made a number of changes to the ordinance over the years to promote hotel development, it has been noted by the Focus Advisory Committee that cottage courts may represent a more viable

alternative to hotels from a development and land use compatibility standpoint. As the Town continues to experience the loss of older hotels and motels, there is a renewed sense of urgency to consider the expansion of the cottage court as a viable use of property.

Based on input from the Advisory Committee and the Board of Commissioners, Staff suggests that the Planning Board initiate a discussion to broaden the scope of where and how cottage courts might be developed within the town. If the Planning Board agrees to this suggested course of action, staff will prepare information to be reviewed at the May Planning Board meeting.

Mr. Reilly suggested using Eddie Goodrich's cluster housing model as a starting point. Mr. Garman agreed that it would be a good place to start.

Chair Cornwell gave Mr. Garman the go ahead to initiate the discussion.

Planning Board Members' Agenda

In keeping with the discussion related to hotels, Mr. Futrell praised the new Holiday Inn Express and thinks it will be good for the Town.

Mr. Futrell expressed concern about the houses that recently burned down. He stated that they could become a safety issue and asked if anything can be done – tear them down, board them up, wrap yellow tape, etc. Mr. Garman will speak to the Building Inspector and follow up with Mr. Futrell.

Mr. Futrell asked about the status of the last house standing on Sea Gull. Mr. Garman clarified that he was referring to the Cherry cottage. It was stated that the town is taking no action on the Cherry cottage at this time.

Mr. Garman gave Mr. Futrell and the Board an updated on the upcoming beach re-nourishment.

Ms. Murray asked if there were grants for buyout of repetitive loss properties. Mr. Garman explained that grants are not generally available for second homes.

Mr. Troutman asked for an update on 7-Eleven. Mr. Garman stated that they are still working on the underground fuel storage issue however there was no new information on the project.

Planning Board Chairman's Agenda

Pogie Worsley moved to adjourn, Mike Siers seconded the motion and the motion carried unanimously.

Adjournment

There being no further business to discuss, the meeting was adjourned at 4:20 PM.

Respectfully submitted,

Lily Campos Nieberding