

**Town of Nags Head
Planning Board
October 20, 2015**

The Planning Board of the Town of Nags Head met in regular session on Tuesday, October 20, 2015 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. Chairman Cornwell welcomed back member Clyde Futrell and welcomed new member Mike Siers who will be replacing Barbara Gernat beginning next month.

Members Present

Mark Cornwell, Barbara Gernat, Ben Reilly, Clyde Futrell, Kate Murray, Jim Troutman, Pogie Worsley

Members Absent

None

Others Present

Andy Garman, Kelly Wyatt, Holly White, Lily Nieberding

Approval of Agenda

Chairman Cornwell stated that, as there are applicants present, he would ask that the order of the agenda be amended to switch Item G – Action Items with Item F – Town Updates.

Barbara Gernat moved to approve the agenda as amended. Jim Troutman seconded the motion and it passed by unanimous vote.

Audience Response

There being no comments, Chairman Cornwell closed the Public Comment/Audience Response.

Approval of Minutes

There being no changes, Ben Reilly moved that the minutes be approved as presented; Barbara Gernat seconded the motion and the motion passed by unanimous vote.

Report of Board of Commissioners Actions

Deputy Planning Director Kelly Wyatt reported on recent Board Actions:

The zoning ordinance text amendment as it relates to the use of Turfstone™ and other permeable pavement systems and the calculation of lot coverage was adopted as presented.

The text amendment allowing “ring wall” style construction as it relates to the Town’s Stormwater Ordinance and retaining of structural fill was also adopted as presented.

The text amendment referred by the Local Business Committee, pertaining to granting administrative adjustments to certain dimensional requirements, was adopted however the Commissioners asked that language be added specifying who could approve administrative adjustments.

Action Items

Consideration of a Conditional Use Application submitted by Susie Nixon of Beach Babies Preschool to operate a Child Day Care Center within the existing Plaza del Sol Shopping Center, located at 2236 S. Croatan Highway and zoned C-2, General Commercial.

Deputy Planning Director Kelly Wyatt presented a Conditional Use Application/Change of Use on behalf of Susie Nixon of Beach Babies Preschool. The purpose of the application is to locate a Child Care Center within an existing Shopping Center (Plaza del Sol) located at 2236 S. Croatan Highway, Nags Head. The property is zoned C-2, General Commercial Zoning District.

Ms. Wyatt proceeded to review the applicable Zoning Regulations:

Child Day Care Center is a conditional use in the C-2, General Commercial Zoning District. There are three conditions associated with this use, compliance with Conditions B (pick-up and drop-off areas) and C (fenced outdoor play areas) have been demonstrated however the applicant is unable to satisfy condition A (state licensing) until such time as the conditional use request is approved. Ms. Wyatt noted that the center will open much earlier than the other businesses in the Shopping Center.

As a condition of the Child Day Care Center use, all outdoor recreation areas must be buffered with a Buffer Yard C from all adjacent residential uses, therefore this buffer must be present along the western boundary. A Buffer Yard D was required and installed in this location when this center was originally constructed. That buffer remains; therefore, no additional plantings are necessary.

No proposed addition/expansion of permeable or impermeable areas are proposed, therefore existing lot coverage remains unchanged and compliant. The maximum allowable height is 35 ft. from grade. The height of the existing building is compliant and no additions or expansions are proposed. Ms. Wyatt noted that nothing about the request kicks in the need for architectural design.

At the time of site development, eleven (11) parking spaces were allocated to this particular unit of the shopping center. Parking is proposed consistent with the standard for Child Day Care Center at one (1) parking space per employee plus one (1) parking space for each six (6) children of licensed capacity. Ms. Nixon has stated that she is requesting licensing for 37 children and will have no more than 4 employees. Based upon this information, ten (10) parking spaces will be required so existing parking is adequate.

With no site improvements proposed and no change in the site lighting, the existing lighting is compliant. No signage has been proposed at this time however any signage proposed in the future must be reviewed and approved prior to installation.

The Dare County Health Department has reviewed and approved this request. The Stormwater Management plans for this building have been previously approved and will not be affected by this request. Traffic circulation has been reviewed and approved by the Town Engineer.

The project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance. Ms. Wyatt noted that, while not a

requirement at this phase of review, Fire and Building Code Officials will require the submittal of an Appendix B, Building Code Construction Summary Form, prior to building permit issuance.

The Public Works Department has reviewed and approved the proposed request as presented.

Ms. Wyatt stated that based upon their review, Staff would recommend approval of this conditional use application as presented contingent upon all state health and human services, child day care section approvals and licensures being issued. Ms. Wyatt stated that she, as well as the applicant, Susie Nixon, was available to answer any questions for the Board.

Ms. Murray inquired if the outdoor play area had to be ADA compliant. Ms. Wyatt stated that it will be reviewed as part of state license requirements. Ms. Wyatt noted that the septic tank and drain field are also in the back and that there is a specific process that must be followed in order to get state approval to locate the play area over the drain-field.

Ms. Wyatt confirmed for Mr. Futrell that the intended unit was formerly a bank, next door is a Nail Salon which recently received its Certificate of Compliance, and next to that is a mattress store.

Applicant Susie Nixon introduced herself and answered questions for the Board. Ms. Nixon confirmed for Chairman Cornwell that there will be four teachers including her. Ms. Nixon confirmed that this would be an all-day daycare and that they would be providing food through a small kitchenette. Ms. Nixon confirmed that they plan to open at 6:30 AM but will have staggered arrivals. Ms. Nixon also confirmed that she plans on installing a five-foot chain link fence with a locked gate around the play area and that the playground will encompass the entire outdoor area in the back.

Mr. Troutman noted that the outside area is sloped in the back and inquired if there were plans to landscape the area. Ms. Nixon confirmed that they are planning to mulch part of the sloped area to create a "fall zone".

Ms. Nixon confirmed for Ms. Gernat that currently they are planning to close at 6 PM but will be flexible based on the needs of the community. Ms. Nixon confirmed that she currently owns two facilities in the Elizabeth City area which are operated by others. She recently moved to the Outer Banks with her husband who is now retired. Ms. Nixon also confirmed that each facility is required to have its own state license and inspections, and that she is certified to teach Kindergarten through 6th grade and has been a childcare professional for 20 years.

Ms. Wyatt confirmed for Mr. Reilly that the Kitchenette/Food Prep area would all fall under Appendix B document requested by the Building Inspectors and the Fire Department. Ms. Wyatt noted that Ms. Nixon has already had a preliminary conversation with a Building Inspector.

Clyde Futrell moved to recommend approval of the conditional use application as presented. Pogie Worsley seconded the motion and it carried unanimously.

Mr. Worsley noted that childcare is a well-regulated industry, and that he could tell from the information that Ms. Nixon provided that she has a lot of experience. This (Planning Board) approval process is the first of many steps Ms. Nixon will need to take especially when it comes to meeting Building Code and other license requirements. Mr. Worsley also stated that childcare services are much needed in the Town.

Consideration of a Conditional Use Application submitted by John DeLucia, PE of Albemarle & Associates, Ltd. to locate Screen Printing use within the existing warehouse structure located at 2234 W. Satterfield Landing Road and zoned C-3, Commercial Services District.

Ms. Wyatt presented a Conditional Use Application brought forth by Albemarle & Associates on behalf of MJG Properties, LLC and Island X-Per-Tees. The purpose of the request is to locate a screen printing business within an existing warehouse building, expanding the business from its current location at 2224 S. Lark Avenue. The existing Land Use is Commercial, Warehouse (Artisan Marble & Tile, Outer Banks Sporting Events and some contractor storage). The Property is zoned C-3, Commercial Services Zoning District.

Ms. Wyatt proceeded to review the applicable zoning regulations for the Board:

Screen-Printing Facility is a conditional use in the C-3, Commercial Services Zoning District and there are several conditions associated with this use. Ms. Wyatt noted that a text amendment was recently adopted allowing multiple principal uses within one principal structure within the C-2 District but this has been the case for quite a while in the C-3 District. In doing so, the use of this site now more closely mimics a "Trade Center" by definition as opposed to singular warehouse facility.

There are no proposed changes to permeable or impermeable areas; therefore, existing lot coverage remains unchanged and compliant. The height of the existing building is compliant as well. Ms. Wyatt also noted that compliance with commercial architectural design standards is not required for structures located within the C-3.

Parking for this facility has been provided consistent with the standard for "Trade Center" of one parking space for each 750 square feet of gross floor area in each unit, but no less than three parking spaces per unit. The structure is 23,629 square feet in area resulting in a need for thirty-two (32) parking spaces. Thirty four (34) spaces currently exist therefore parking remains compliant. Ms. Wyatt stated that to her knowledge there has never been a parking problem on this site.

No site improvements are proposed for this request, therefore buffering and landscaping do not apply. The existing lighting is also compliant and no new signage has been proposed.

The Dare County Health Department has reviewed and approved this request. Ms. Wyatt stated that a set of stamped plans were submitted and available for review.

The existing Stormwater Management plan does not need to be revised as there is no proposed expansion. Traffic circulation has been reviewed and approved by the Town Engineer.

Ms. Wyatt stated that the project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance. There has been a discussion between the Applicant and Deputy Fire Chief Shane Hite regarding the necessity to sprinkle-protect the structure or provide firewalls.

The Public Works Department has reviewed and approved the proposed plan with the condition that one (1) additional 4 cubic yard dumpster be provided prior to occupancy.

Ms. Wyatt noted that, while not a requirement at this phase of review, Fire and Building Code Officials would require the following documents prior to building permit issuance:

- Detailed floor plans showing any barriers and all new or existing required exits.
- Appendix B, Building Code Construction Summary Forms.
- Documentation of all hazardous materials or chemicals used in the manufacturing process as well as their quantities.

Based upon their review, Ms. Wyatt stated that Staff would recommend approval of this conditional use application as presented with the condition that one (1) additional dumpster be provided as required by the Public Works Department. Ms. Wyatt stated that she as well as the applicant and Mr. DeLucia were available to answer any questions.

Ms. Gernat inquired if there would be a separate disposal process for the chemical waste. Ms. Wyatt stated that it was her understanding that there has to be a special storage or containment area.

John DeLucia with Albemarle Engineering addressed the Board and introduced Jim Kenny, one of the partners in the Screen Printing business. They have been in business on the Outer Banks for 25 years and in the Town of Nags Head for the last five. When they first opened the business in Nags Head they went through a lot of discussion related to what type of printing process they would be doing, the types of materials, and the types of paints. At that time there were concerns raised by the Health Department and the Town regarding the washing of the screens. There was a separate storage container placed in or near the main building. Each screen used to generate about 5 gallons of waste water and now, thanks to advances in technology, it has been reduced to about half a pint per screen.

Mr. DeLucia stated that the proposed building housed Artisan Marble and Tile and they were cutting marble in that building so there is a series of large tanks that were already installed. They will be using these containers for the wastewater so none of it will go into the septic system. Mr. DeLucia noted that Mr. Kenny had provided all the Material Data Safety Sheets to the Fire Department previously and they will be updated for any new products.

Jim Kenny with Island X-per-Tees confirmed for Mr. Worsley that the main reason for the previously required tanks is to house the cellulose product until it dries. Once it dries it becomes a non-toxic solid waste which can be disposed of safely in the garbage. The water is then reused several times before it becomes PH unbalanced and is then disposed of by one of the sewage companies.

Mr. DeLucia confirmed for Mr. Futrell that the company is not moving from one building to the other, rather they are expanding their operations. They hope to expand their existing building in the next several years.

Mr. Cornwell inquired if there any hazards to the employees during the entire process. Mr. Kenny stated that no there are not, explaining that in previous years they used a cleaning agent that was somewhat hazardous but even that is being replaced with "Smart Chemicals".

Mr. Kenny also confirmed for Mr. Cornwell that a small section in the front of the building is currently used as a staging area by the organization that puts on the Outer Banks marathon.

Mr. Kenny confirmed for Mr. Worsley that they ship their products all over the country and even other parts of the world. Mr. Kenny explained that in order to keep their employees working year round

they have expanded the business into institutional printing, Nike, Patagonia, Disney and other large companies. That work is sent all over the country and is year-round work. Their goal is to have 40 to 60 employees that work and reside in Dare County and lower Currituck. They have many long-term employees and their goal is to keep the business at the beach.

Ms. Gernat asked Mr. DeLucia about the necessity to sprinkler-protect the structure or provide firewalls. Mr. DeLucia explained that the type of use that a screen-printing operation is classified under the building code has certain square foot minimums and maximums. These fire prevention elements are required because of the square footage of the building. They are looking at either installing a sprinkler system or partitioning the building with a fire barrier/wall to reduce the fire area of each enclosed space. Mr. DeLucia explained that the screen-printing textiles use falls into a higher classification in terms of fire rating than the previous tenants (Artisan, Marble & Tile).

Mr. Kenny confirmed for Mr. Reilly that the new building will house a small production office but the majority of the administrative offices will stay in the original building.

Pogie Worsley moved to recommend approval of the Conditional Use Application as presented with Staff's conditions and recommendations. Ben Reilly seconded the motion and it carried unanimously.

Town Updates

FOCUS Nags Head

Principal Planner Holly White gave an update on the FOCUS Nags Head which is underway and currently in Task 2- Exploration.

Ms. White stated that "Guiding Principles" were developed following an in-depth review by the Consultants of the Town's 35 policy documents, as well as interviews with Staff, the Board of Commissioners, and Planning Board (during the initial site visit). The guiding principles will act as overarching goals for the entire project and should represent broad, community wide values. All outcomes of the project should work to accomplish these guiding principles. Ms. White explained that guiding principles are intended to be broad statements and that the remainder of the comprehensive plan will work to clarify how the Town will achieve the vision and guiding principles.

The project consultants were in Town on Monday, September 28th and Tuesday, September 29th. Stakeholder interviews were held with key community members and groups on Monday and Tuesday. Approximately 70 people were invited during this two day period to be a part of the stakeholder interviews.

In addition to the Stakeholder interviews, a Community Visioning Meeting was held on Monday evening, September 28th at 7:00 pm at Jennette's Pier. Approximately 53 people attended the meeting. A presentation was given by staff and the consultant. The project purpose, timeline, and guiding principles were discussed.

Overall, the responses from each group were consistent and raised issues that the Town is aware of and had heard before. Respondents seemed to feel that the draft guiding principles could capture the majority of their concerns. The information gained from this meeting will be captured and utilized to modify the vision as needed. Staff will condense the information from the meeting and make it available on the project website.

The consultants also held a kick-off meeting with the Advisory and Technical Committees. The purpose of the meeting was to inform the committees about the project and their role in the project. Committee members were given the chance to introduce themselves and discuss any concerns with key issues.

Ms. White noted that in the coming weeks, the guiding principles will continue to be revised. In addition, the vision statement will begin to be reworked based on the feedback from all community input to this point. Staff will work with the consultants to identify milestone dates when portions of the comprehensive plan will be available. From that, Staff will develop a more extensive public involvement plan for vetting draft portions of the plan as they become available. At a minimum Staff will conduct up to three advisory committee and community meetings, continue to report updates and progress to the Planning Board and Board of Commissioners, and continue to engage with key stakeholders as necessary.

National Walk to School Day

Ms. Wyatt briefly updated the Board on National Walk to School Day which took place on Wednesday, October 7th. Ms. Wyatt stated that this is the Town's fourth year participating in the program. Planning Staff and volunteers from Police, Fire and the Outer Banks Hospital met kids and parents at three locations throughout the town and walked with them to School. Ms. Wyatt noted that the program was well attended and participation has grown over the years.

Discussion Items

Discussion of revisions to the Town's sign ordinance to ensure content neutral language.

Deputy Town Manager/Planning Director Andy Garman explained that at earlier meetings the Planning Board had discussed options regarding "for rent" and "for sale" signs on the beach road. Previously, the Board had considered a draft ordinance that would have established separate criteria for "for rent" signs on residential properties. The Board was considering options which would have allowed a smaller freestanding "for rent" sign to be placed on residential property in addition to a sign attached to the wall of the building.

Since that time, the U.S. Supreme Court issued a decision that affects not only Nags Head's sign ordinance but other local sign ordinances around the country. This ruling will require communities across the country to ensure that their sign regulations are based on content neutral standards such as size, place, manner and location; they can no longer be based on what the sign says. Regulations may also be based on the use of the property.

Mr. Garman noted that this this ruling will have a large impact on the Town's sign ordinance as there are many regulations that are content based. For the Town's ordinance to be content neutral, the Town could no longer establish separate regulations for "for rent" or "for sale" signs; the Town could allow a certain number of signs on a residential property and could also regulate the size and placement of these signs. Mr. Garman stated that at their October regular meeting, the Board of Commissioners directed Staff and the Planning Board to begin working on modifications to the Town's sign ordinance to ensure that the Town's sign regulations are content neutral.

Mr. Garman stated that the purpose of this item was to introduce the new ruling to the Board and begin discussing how the Town might proceed with developing these regulations in light of the recent Supreme Court decision.

Mr. Garman stated that Staff will be reviewing the ordinance with the Town Attorney and will bring back something to the Planning Board in December. Chairman Cornwell asked that Staff put the item in the November Agenda to update the Board on any progress.

Discussion on status of landscape and buffering ordinance following Joint Workshop and Local Business Committee meeting.

Deputy Planning Director Kelly Wyatt stated that on September 24, 2015, a joint workshop was held with the Planning Board and the Local Business Committee to discuss the Town's landscaping and buffering requirements. Staff invited Shannon Brooks, Director of the Dare County Office of the North Carolina Cooperative Extension, to provide guidance on developing an ordinance and recommended plant list for the different planting zones within the Town. At the conclusion of the meeting, the group suggested that the Town develop landscaping and buffering guidelines that would be referenced by the ordinance in order to assist property owners with preparing practical and implementable landscape plans.

The Local Business Committee met on October 15, 2015 and continued its review of the proposed ordinance including a suggested plant list and framework for the ordinance. The plant list was developed by Shannon Brooks using an existing NC State publication pertaining to coastal plants. Ms. Wyatt presented an overhead showing a list of plants that would do well on the beachfront, on the highways and sound-side, the list also had columns identifying whether the plant was an evergreen and the typical size of the plants.

Ms. Wyatt stated that Staff had not yet had a chance to compare this to the plant list suggested by Planning Board Member Kate Murray or to the list in the Town's current ordinance. The Local Business Committee discussed these items and recommended that Staff move forward to the Planning Board with the ordinance and guidelines for further development. Due to the short time frame between the Local Business Committee meeting and the distribution of the Planning Board packet, Staff was only able to present to the Planning Board what was provided to the Local Business Committee. Ms. Wyatt stated that Staff expects to come back to the November Planning Board meeting with a draft ordinance and guidelines.

Planning Board Members' Agenda

Clyde Futrell requested a status update on the new 7-11. Mr. Garman stated that a demolition permit has been applied for and will be issued soon; Staff is just waiting on some additional information.

Planning Board Chairman's Agenda

Chairman Cornwell thanked Barbara Gernat for her service not only to the Planning Board, but her assistance to him as Chairman.

Adjournment

There being no further business to discuss, a motion to adjourn was made by Barbara Gernat. Pogie Worsley seconded the motion and the motion passed unanimously. The time was 4:08 PM.

Respectfully submitted,

Lily Campos Nieberding
