

KURE BEACH PLANNING & ZONING COMMISSION
REGULAR MEETING ♦ DECEMBER 4, 2007

A regular meeting of the Kure Beach Planning and Zoning Commission was held on Tuesday, December 4, 2007 at 7:30 p.m. A quorum was present.

MEMBERS IN ATTENDANCE

Chair – Alan Votta
Vice Chair – Ken Buchert
Members – Tim Bullard, Janet Foster

MEMBERS ABSENT

James Schutta

STAFF IN ATTENDANCE

Building Inspector John Batson
Clerk Nancy Avery

Liaison Commissioner Dean Lambeth was in attendance. Attorney Holt Moore was in attendance. Town Attorney Andy Canoutas was also in attendance. Mayor Pro Tem Montgomery was in attendance.

Mr. Dexter Hayes of Hayes Planning was in attendance.

CALL TO ORDER:

Chairman Votta called the meeting to order at 7:34pm.

APPROVAL OF MINUTES

ACTION - Member Foster MADE THE MOTION to approve the November 12, 2007 minutes with no changes. Member Buchert seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

PERSONS TO ADDRESS THE BOARD

None

SECTION 19-323.5 Minimum lot use

1. Discussion of 19-323.5 of the Code of Ordinances regarding minimum use of lot

Member Buchert asked what the process is now for the owner of the Rolling Surf property since the Land Use Plan (LUP) has been amended.

Attorney Canoutas stated the CAMA permits issued to the owner are now null and void because the LUP was amended and the owner will have to start the process again. Attorney Canoutas said the first step would be for the owner to apply to the Building Inspector for a permit and if turned down, would have the option to appeal to the Board of Adjustment.

Mayor Pro Tem Montgomery stated that the Council will vote on December 18th to continue with the purchase of the Rolling Surf property. December 4th was the examination date meaning from this date until actual closing, the Council can back out but will lose the earnest money.

Mayor Pro Tem Montgomery asked attorney's Canoutas and Moore if the implementation of the special use permit process would supersede section 19-323.5 of the code?

Town Attorney Canoutas responded that yes, under the current ordinance, a residence can be rebuilt on the same footprint. If the owner wanted to expand the special use permit process could be used.

Mayor Pro Tem Montgomery asked if special use permit protects the homeowners that have single family dwellings in the B1 study.

Mr. Hayes of Hayes Planning responded that yes, special use permit process can be set up that way. Mr. Hayes asked what is the purpose of allowing single family dwelling in all districts.

Mayor Pro Tem Montgomery replied that it is to allow a property owner to have use of any lot.

Attorney Canoutas stated that the Court of Appeals said section 19- 323.5 doesn't stand alone and must be read with section 19-323 Lot of Record and that 19-323.5 alone was a narrowing of interpretation.

Mayor Pro Tem Montgomery stated that as it stands, section 19- 323.5 is still on the books and it is just a matter of time until the issue arises again.

Attorney Canoutas commended that Council could do away with section 19- 323.5.

Attorney Moore stated it seems reasonable to do away with section 19- 323.5 if residential is addressed in special use. Since Planning & Zoning haven't started working on a list of allowable uses for special use, maybe we should wait until the special use permit process is completed before eliminating section 19-323.5

Mr. Hayes stated that section 19-323.5 doesn't really apply in other districts -- only in the B1. If a single family home is allowed only as a special use in the B1 district it doesn't

mean it will be allowed by right. It would only be approved if it meets requirements and would have to prove that commercial couldn't be done.

ACTION - Member Bullard MADE THE MOTION to table further discussion until talking about the special use permit process. Member Buchert seconded the motion The VOTE OF APPROVAL WAS UNANIMOUS.

Note – Member Foster was out of the room at the time of the vote. Member Foster's vote was recorded as an affirmative.

ORGANIZATIONAL ITEMS

1. Elect chairman

ACTION - Member Buchert MADE THE MOTION to elect Jim Schutta as chairman. Member Bullard seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

2. Elect vice chairman

Member Buchert MADE THE MOTION to elect Janet Foster as vice chairman. Member Bullard seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

3. Expiration of term – Tim Bullard

Member Foster MADE THE MOTION to re-appoint Tim Bullard to another five year term. Member Buchert seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Member Buchert stated he will be resigning from P&Z after the February meeting.

ACTION - Consensus of commission is to interview candidates at January meeting.

ACTION - Member Bullard MADE THE MOTION to accept Member Buchert's resignation effective February 2008 and request Council to advertise. Member Foster seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

4. Reschedule January meeting

ACTION - Member Buchert MADE THE MOTION to reschedule the January meeting to Tuesday January 8th, 2008 at 7:30pm. Member Bullard seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

OLD BUSINESS

1. B1 study

Dexter Hayes of Hayes Planning presented the following proposed changes to the Code of Ordinance in reference to the B1 study:

a. Height measurements

Mr. Hayes stated that as currently written in the Code of Ordinance, height measurement goes to the highest point and allows a lot of leniency in measuring different types of roofs, such as spire, dome, loft, etc.

Mr. Hayes said the he wrote the suggested draft to avoid situations such as a residential 3rd floor finished area that could be allowed due to the use of a really steep roof. Mr. Hayes also indicates that the draft doesn't change the height limit but clarifies how you measure it based on different roof designs – it changes the definition of “top” by measuring only to the mean roof height in certain style roofs. Safety design for wind resistance is hip roof.

Attorney Moore stated that the suggested change won't run against the Land Use Plan or state law regarding height.

Chair Votta stated that if we can't measure a different way, we need to put something in the ordinance about minimum roof pitch and get rid of some of the exceptions listed in section 19-333.

ACTION – Consensus - add minimum roof pitch and section 19-333 exceptions to January agenda.

ACTION – Consensus - tabled Mr. Hayes suggested language for section 19-1 definitions of measuring height until January meeting

Said proposed language for section 19-1 regarding height measurement is herein included as part of these minutes as attachment A.

Chair Votta called for a five minutes recess at 8:35pm.
Chair Votta resumed the meeting at 8:40pm.

b. Hotels and motels

Mr. Hayes presented proposed changes to the Code of Ordinances for the definition of both “hotel” and “tourist” lodgings for consideration.

Mr. Hayes stated:

- that you can't regulate a condominium by itself, but have to write rules so that if it is converted to a condo association, it still operates as a hotel. Most jurisdictions use this to avoid the encroachment of condos into a commercial area.
- a 90 day minimum stay defines tourist use and the existing requirement of one water meter is also a good determining factor
- the point of the suggested draft is to ensure motels are used as rentals not permanent residences

There were no questions from commission members.

Said proposed language for section 19-1 regarding hotel and tourist is herein included as part of these minutes as attachment B.

c. Parking

Mr. Hayes presented draft language to the Code of Ordinances to address two issues related to parking:

1) small block sizes

Proposed new section 19-340 Off-site or Remote parking facilities

Mr. Hayes stated:

- that the proposed section 19-340 is all new language in the ordinance
- if owner can't provide enough parking on site, owner can provide off site parking on a contiguous lot via special use permit
- the proposed language also states no off-site parking space may be located more than 750 ft (3 blocks) from the main entrance of the business

Commissioner Lambeth asked if hotel/motel minimum parking standards are regulated by the state?

Mr. Hayes replied no, only handicapped parking is regulated and that's by the Federal government.

Mr. Hayes also stated that P&Z could consider doing away with any parking requirements in the B1 district. Currently some leniency is allowed via a waiver request.

Commissioner Lambeth stated Council would be in favor of that

ACTION - Consensus – Mr. Hayes to rewrite parking regulation to eliminate non-residential parking requirements in B1 district.

Said proposed section 19-340 is herein included as part of these minutes as attachment D.

2) shared parking spaces

Mr. Hayes presented revised language for section 19-336 of the Code of Ordinances

Mr. Hayes stated:

- a business can make an arrangement with another business that has existing parking spaces to use spaces when not used by other business
- he recommends controlling this by special use permit process
- criteria would be established such as uses have to match up based on peak parking demands, such as a bank that has day traffic and a restaurant open only in the evenings
- both sections 19-340 and 19-336 would require special use permit

Mr. Hayes stated he is working on the sign regulations portion of the ordinance and asked the commission's opinion of sandwich signs.

ACTION - Consensus – hold off on sandwich signs until sidewalks in the B1 district are widened – too small now.

Said proposed revised section 19-336 is herein included as part of these minutes as attachment E.

d. Permitted uses

Mr. Hayes presented a copy of a comprehensive listing of permitted uses in section 19-243 of the B1 district currently allowed by the zoning ordinance and asked commission members to review the 24 listings to determine to keep by right, eliminate or make special use:

- (1) Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; LEAVE BY RIGHT
- (2) Automobile sales and service (5511); ELIMINATE
- (3) Banks, finance and loan companies (6021 & 6022); LEAVE BY RIGHT
- (4) Bus terminal (4173); ELIMINATE
- (5) Churches and other places of worship (8661); LEAVE BY RIGHT
- (6) College, business colleges, trade schools, dancing schools, and similar organizations without students in residences (8299); ELIMINATE
- (7) Dental laboratories (8021); ELIMINATE
- (8) Dwelling when constructed in conjunction with permitted use provided such dwellings are an integral part of the main building of such a permitted use; SPECIAL USE
- (9) Eating and drinking establishments (5812 & 5813); LEAVE BY RIGHT
- (10) Service stations (5541); LEAVE BY RIGHT
- (11) Food stores (5411, 5431, 5441, 5451, and 5461); LEAVE BY RIGHT
- (12) Hotels and motels (7011); LEAVE BY RIGHT
- (13) Manufacturing of articles to be sold exclusively on the premises providing such manufacturing is incidental to the retail business and employs not more than five (5) operators engaged in the production of such items (2052, 2387, 2441); ELIMINATE
- (14) Parking lots (7521); SPECIAL USE
- (15) Offices for professional business activities (80-11, 21, 31, 41, 42, 43, 49; 8711, 12, 21; 8111); LEAVE BY RIGHT
- (16) Personal service establishments such as barber and beauty shops (7231, 7241, 5611, & 5651); LEAVE BY RIGHT
- (17) Public buildings and facilities; LEAVE BY RIGHT
- (18) Retail stores not otherwise listed: (5251, 5261, 5912, 5921, 5932, 5941, 5942, 5943, 5944, 5945, 5947, 5948, 5949, 5961, 5992, 5993, and 5995); LEAVE BY RIGHT
- (19) Arcades (7993); LEAVE BY RIGHT
- (20) Theaters when housed in a permanent structure (6512); LEAVE BY RIGHT
- (21) Dance halls when at least five hundred (500) square feet of space is provided for dancing (7911); LEAVE BY RIGHT
- (22) Wholesale business (5146, 5192, 5193); ELIMINATE
- (23) *Reserved*;
- (24) Real estate offices (6531). LEAVE BY RIGHT

ACTION - Consensus – limit special use to B1 district only

NEW BUSINESS

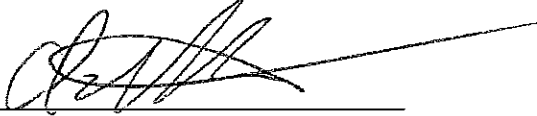
None

MEMBER ITEMS

None

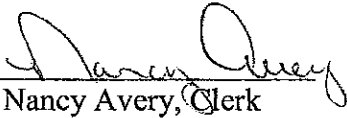
ADJOURNMENT

ACTION - Member Bullard MADE THE MOTION to adjourn at 9:50pm . Member Foster seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS



Alan Votta, Chairman

ATTEST:



Nancy Avery, Clerk