

KURE BEACH PLANNING & ZONING COMMISSION
REGULAR MEETING ♦ OCTOBER 5, 2010

A regular meeting of the Kure Beach Planning and Zoning (P&Z) Commission was held on Tuesday, October 5, 2010 at 7:00 p.m. A quorum was present.

MEMBERS IN ATTENDANCE

Chairman Craig Galbraith, Members Tim Bullard, Jim Schutta and Alan Votta. Anne Brodsky was not in attendance.

STAFF PRESENT

Building Inspector John Batson
Administrative Assistant Josie Fitzgerald

Liaison Commissioner Barry Nelder was in attendance. Attorney Holt Moore was not in attendance. A quorum of the commission was present.

CALL TO ORDER

Craig Galbraith called the meeting to order at 7:00 pm.

APPROVAL OF AGENDA

MOTION - Member Schutta made the motion to adopt the agenda with no changes.
SECOND - Member Bullard
VOTE - Unanimous

APPROVAL OF MINUTES

MOTION - Member Votta made the motion to adopt the minutes of the September 7, 2010 meeting with no changes.
SECOND - Member Bullard
VOTE - Unanimous

PERSONS TO ADDRESS COMMISSION

None

OLD BUSINESS:

1. Zoning Overlay District & Form-Based Planning - sub committee

Chairman Galbraith stated that at the last meeting on September 7th they were looking at the SIC Codes Sec. 19-243 Permitted Uses and Division 10. B-1 Business District. At that time there was discussion about uses and what the Commission will consider. Chairman Galbraith suggested to use the NAICS Code since most municipalities in the southeast use it. From his review of about 50-60 codes almost all have a conditional use. He suggested if there were no problems with a use and it was not prohibited it could be permitted. However, there are certain uses that the town would have some limitation. For

example, time limitations or design characteristics would come under conditional use. He further suggested that two paragraphs may be added into Sec. 19 for clarification since there is currently some confusion as to multiple and single uses.

First proposed paragraph would be:

More than one permitted use can be located on a particular site or within a particular building. All uses on a particular site or within a particular building must be permitted. If a use is not on the permitted use table, it is then prohibited. In addition, the permitted use table also identifies specific uses with a particular SIC code that may be prohibited. If a proposed use cannot be classified into a normal SIC code, the senior Zoning Administrator should determine that a use is not listed and is not similar to a use in the Permitted use Table, then said use is prohibited. A business in operation may not add another use to their existing operation that is not permitted.

Second proposed paragraph would be:

Permitted uses requiring a Conditional Use Permit are identified by an asterisk in the permitted use table. A Conditional Use Permit allows a business to operate those activities within that particular SIC code subject to certain conditions. These conditions may include, but are not limited to, restrictions on hours of operation, special lighting restrictions, special signage requirements, or even exclusion of specific activities normally classified within that particular SIC code. Application for a Conditional Use Permit is made to the Kure Beach Planning and Zoning Commission for approval. Applicants may formally appeal the decision of the Kure Beach Planning and Zoning Commission to the Kure Beach Town Council. If a business in operation desire to add a use that requires a Conditional Use Permit, the Conditional Use Permit must be obtained prior to adding that particular use. If an enterprise fails to adhere to the conditions specified in the Conditional Use Permit, then that use is therefor prohibited.

Chairman Galbraith further suggested that the reason this language be included is it would help to clarify that a site can have multiple uses and certain uses may be prohibited, i.e. internet cafés which are not specifically identified in SIC codes. Under arcade, put an asterisk that would require arcade to have a special use permit and internet café would be part of that use or certain uses can be prohibited. He further recommends that this type of wording be added within Sec. 19 and the Commission goes through SIC and cross off some from permitted use and require some for a special use.

Member Votta asked what the difference is between “special use permit” and “conditional use.” He was not sure if we should use special use permit or conditional use in the language.

Building Inspector Batson stated that we already have special use. There was discussion on special use permits in Town of Kure Beach. For example, Sec. 19-336, requires parking spaces and mixed uses. There was further discussion on what has already been taken out of the ordinance reviewing the latest version of Sec 19. Also cited was Sec. 19-79 which addresses changing the use or original intent. It was determined that the first proposed paragraph would apply.

Discussion continued that the first proposed paragraph was still relevant and that the second proposed paragraph permitted uses identified by asterisks as to “special use.” It was agreed that the current language would allow for special use permits, but arcades would need an asterisk and so would coin operated arcades.

Councilman Nelder suggested that some opposition may come from arcade owners if they are required to obtain a special use permit. He suggested that the Commission may need to advertise these discussions in order for business owners to be aware of any proposed changes in use.

Member Votta stated that meetings are currently posted on the Town internet but our meetings are not advertised in the newspaper.

Building Inspector Batson did not think additional advertising was needed since that was not the normal procedure in the past.

Member Schutta suggested they go through the special uses and see which ones to identify and use the first paragraph and do not use the second paragraph since we already have special uses in Sec. 19-79.

Chairman Galbraith suggested they look at SIC codes and see what to prohibit in that code. He stated that the SIC codes were originally established in 1987 and some codes like internet cafes are not included and therefore, they may want to exclude them.

MOTION: Member Bullard made the motion that the Planning and Zoning Commission use the SIC codes to identify the uses to be permitted and those which will not be prohibited and to add language to Sec. 19 to clarify and identify those uses which will be “special uses” and identify with an asterisk those that will be “conditional uses.”

SECOND: Member Schutta

VOTE: Unanimous

2. Zoning Overlay District and Form-Based Planning

Chairman Galbraith discussed that although the Council had requested the Planning and Zoning Commission to take on the responsibility of developing the form-based overlay, he questioned if the Council discussed the formation of the ad hoc committee at their recent meeting.

Councilman Nelder stated that he did not discuss the issue of the Commission taking on the task but it was his opinion that they should make a recommendation to Council for the Planning and Zoning to do that and get the Council's approval first.

Chairman Galbraith recommended that it be put on the Council meeting agenda specifically. It was discussed that the Town Council would want to hear from the Planning and Zoning Commission and a memo should be sent to the Council requesting their approval that the Planning and Zoning Commission would act as the Zoning Overlay Committee.

Chairman Galbraith stated that he would appear at the Council meeting and agreed that they needed the Council's approval first for the Planning and Zoning Commission to go forward to act as the committee.

Member Votta confirmed that the topic would be placed on the agenda each month and given a 30-minute block of time for discussion, including any presentations that would need to be made in regard to the topic.

NEW BUSINESS:

Yard Sale Ordinance

Building Inspector Batson stated that the issue which occurred last month regarding a yard sale was taken care of. There was discussion about whether or not an owner of the property where a yard sale is held needs to be present if he is not the applicant.

Member Votta stated that the owner of the property gave permission to hold the yard sale.

Building Inspector Batson stated that the Code says there shall be no yard sale on "unowned premises." The Code further allows for no more than four yard sales and no more than two consecutive weeks. Otherwise, it could be perceived as a business. He was of the opinion that it shouldn't be important whether the owner was the applicant for the permit. He did his job to enforce the Code and he felt the issue was taken care of.

There was further discussion that the language in the Code is unclear since all property is owned by someone and there is no "unowned property." Whether the owner is present at the yard sale or not is irrelevant as long as permission was given by the owner to hold the yard sale on the property if the owner is not the applicant.

Chairman Galbraith recommended a proposal to revise the language of the Code.

Inspector Batson was opposed and stated that he would enforce the Code, but would not stop a yard sale if permission was given by the owner to hold the sale on the premises. If the owner of the property is aware of the sale and gives permission, then it should be permitted. However, the application for a yard sale permit currently says "owner must secure permit."

It was agreed that instead of revising the language in the Code, the wording on the application for the permit should be revised to include wording that the owner gives permission.

MOTION: Chairman Galbraith made the motion that the application for a garage or yard sale would include language to the effect that no garage or yard sale shall be permitted without the express permission of the owner of the premises in order to secure a permit in accordance with Sec. 8.23.

SECOND: Member Schutta

VOTE: Unanimous

MEMBER ITEMS:

1. Presentation of Sign Ordinance.

Councilman Nelder stated that several people at the hearing were ranting about the signs and were very verbal about their opposition.

Chairman Galbraith said he spoke to some who were complaining and said they didn't want to have to take signs down. He felt he didn't want to grandfather signs but they could be amortized for a period of time.

The discussion continued that the Council took no action at the public hearing, but could place the issue on the agenda in the future. It was stated that the maximum height is 35 feet and anyone can do that.

Chairman Galbraith suggested that the Council should move forward on amortization of existing signs.

Councilman Nelder suggested that one member of the Planning and Zoning Commission attend the Council meeting and make a recommendation and draw up a statement and address it at the meeting so there are no 35' signs.

There was further discussion as to what needed to be done. It was stated that there was a public hearing and there was no need for a vote but would be put on the agenda for the next meeting.

Councilman Nelder questioned whether another public hearing was needed. There was concern that the height regulation affected some businesses personally and that there was no problem with the sign ordinance except for the cost of replacement. It would not be favorable for the Council to pass something that will affect the public financially. The public would be in favor of grandfathering.

Chairman Galbraith stated that if the section is changed there are six signs that are affected which still do not conform. The sole issue is amortization and the affect of six signs owners. There is no problem if grandfathered.

Discussion continued that amortizing for 15 years would be better than grandfathering
Chairman Galbraith said a study from 1950 revealed that some signs still existed after 75 years. He did not recommend grandfathering since it was not a good idea.

Councilman Nelder requested that the Planning and Zoning Commission put in writing that the Council make a small change to the Code which in his opinion can be done without a problem.

MOTION: Member Schutta made the motion from feed back from the public hearing concerning the sign ordinance that it is recommended to the Town Council that there be a revision to the Code from the existing seven (7) year amortization with a three (3) year extension to a twelve (12) year amortization with a three (3) extension equaling a total of fifteen (15) years.

SECOND: Member Bullard

VOTE: Unanimous

2. Ocean Front Park

Member Votta attended Parks and Recreation meeting. A new design for the building was disclosed which he did not like. He liked the original design since it looks more like an ocean front nautical design. The new version looks like a bank or municipal bldg. Although it appears to be a well designed building, he is disappointed in the design for Kure Beach. The Southport park was compared in design, which is simple and basic and more suitable. He felt since the Town Council approved the preliminary design, it should not be changed.

There was further discussion on alternatives to current design vs. the original design.

Councilman Nelder stated that he had a discussion with the Mayor regarding the park and how far it deviated from the original design and what is now being worked on. He stated that he will discuss the issue at the next Council meeting on November 11th.

Member Votta stated that no one seems to like the new design. He feels the Park should be the focal point of town and not look like a municipal building. He thought it had to be a true ocean front park in order to qualify for the grant.

Chairman Galbraith suggested that concerns be expressed to the Council

ADJOURNMENT

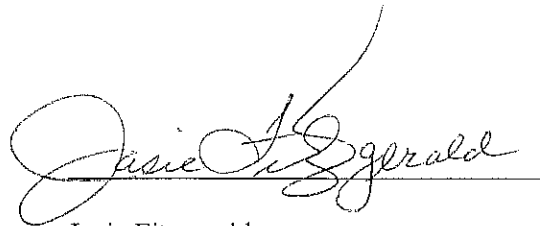
MOTION: Member Votta made the motion to adjourn at 8:00 p.m.

SECOND: Member Bullard

VOTE: Unanimous



Craig Galbraith, Chairman



Josie Fitzgerald
Administrative Assistant