



KURE BEACH PLANNING & ZONING COMMISSION
REGULAR MEETING ♦ January 4, 2011

A regular meeting of the Kure Beach Planning and Zoning (P&Z) Commission was held on, January 4, 2011. A quorum of the commission was present.

MEMBERS IN ATTENDANCE

Chairman Craig Galbraith
Member Jim Schutta
Anne Brodsky
Tim Bullard
Alan Votta

STAFF PRESENT

John Batson, Building Inspector
Josie Fitzgerald, Administrative Assistant
Barry Nelder, Liaison Commissioner

Attorney Holt Moore was not in attendance

CALL TO ORDER:

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

APPROVAL OF AGENDA:

MOTION: Member Brodsky made the motion to adopt the agenda with changes
SECOND: Member Bullard
VOTE: Unanimous

APPROVAL OF MINUTES:

MOTION: Member Schutta made the motion to adopt the minutes of the December 7, 2010 meeting with no changes.
SECOND: Member Votta
VOTE: Unanimous

PERSONS TO ADDRESS COMMISSION:

None

OLD BUSINESS:

A. Zoning Overlay Districts & Form-Based Planning

Update from Council meeting. Chairman Galbraith feels the zoning overlay districts relate to the SIC codes, he thinks the commission should focus on the SIC codes.

B. Sign Ordinance - Chairman Galbraith updated committee regarding his meeting with Council. He went to the meeting to get a sense of how they wanted to go with the sign issue. He stated that Council thought it would be most appropriate to have a petition to extend amortization to have a process to extend. We will give Council a copy of the final version of the proposals so they see exactly what changes are recommended. He did research and found a good ordinance from Ionia, Michigan. He feels that to satisfy council and public, this information should be inserted after the "12 year automatic extension." There would be 12 years plus a 3 year extension and then this would be additional time to avoid a hardship. But the sign must meet certain criteria. We are dealing with only 12 signs. This would kick in after 15 yrs. Council wants to be as lenient a possible without grandfathering. This new paragraph gives 18 years and takes care of concerns of Council. Chairman Galbraith suggested they get approval from Council to add this additional language into Ordinance without another public hearing. The two blank cells in the table, B-2 and B-3 should be filled in with "15%." Further discussion by committee and all agreed.

MOTION - Chairman Galbraith moved to revise Sec. 19-381 – Nonconforming signs as follows:

Subsection (5), (a), (b), (c), change (d) All off-site advertising signs together with all other signs: *twelve (12)* years after notification; change the existing (i) to (e) and add paragraph (f) as follows:

After the automatic extension for property owners, property owners may petition the Town of Kure Beach Planning and Zoning Commission for a 3 year extension to the prescribed amortization schedule. Applicants may appeal the decision of the Planning and Zoning Commission to the Town of Kure Beach Council. After an extension has expired, property owners may apply for additional 3 year extensions. Extensions from the prescribed amortization schedule of the ordinance may only be granted based on the evidence presented that all of the following standards have been met.

(1) There are practical difficulties or unnecessary hardships that will exist if the extension is not granted. The applicant must demonstrate that the alleged practical difficulty or hardship, or both, are exceptional and peculiar to the appellant's situation and result from conditions, which do not generally exist throughout the city. (In other words, what are the conditions or circumstances that prevent you from complying with the requirements of the Sign Ordinance?)

(2) The practical difficulty or hardship is not self-created. (In other words explain whether or not some action on your part created a situation which now requires an extension from the Sign Ordinance.

(3) The terms "practical difficulties" and "hardships" shall relate to the use of a particular parcel of land. "practical difficulty" or "hardship" shall not be deemed solely economic, such as the cost of the sign, the size of the sign, or the fact that the sign has already been constructed. The fact that the sign is only available in standardized size and/or material (example: franchised business signs) shall not constitute a "practical difficulty" or "hardship." (In other words, what is the practical difficulty or hardship that results from the requirement of the Sign Ordinance?)

(4) The practical difficulty or hardship which is alleged to result from a failure to grant the extension must include substantially more than mere inconvenience or the mere inability to attain a higher financial return. (In other words, explain how the requirements of the sign Ordinance will affect your business or use.) *(5) It must be demonstrated by the appellant that granting the extension will result in substantial justice being done, which consideration is given to the impacts on the public health, safety and welfare.*

(6) The granting of the extension shall not impose a negative impact on the rights of others. (Explain how granting the extension may affect others nearby.)

(7) A prior extension does not constitute a bases for additional extensions to the amortization schedule.

SECOND: Member Brodsky

VOTE: Unanimous

Chairman Galbraith stated that the commission previously submitted the preamble and the table. Council has not yet approved either one yet. He suggested that they submit the rest of the changes from last few meetings and the new paragraph for final approval.

C. Sic Codes:

Chairman Galbraith believes that the Council wants to take a conservative approach. They don't want to do anything that would force an existing business for a conforming to go into a nonconforming. He feels they can use "special use permit" to control and not create a hardship for any business. Discussion on how to proceed to identify those businesses that will be allowed as a "special use." It was agreed to go through each district and review.

We will start at page 1233, Sec.19-243 Permitted Uses. B-1 District. We will put "s" for those businesses that would require special use permit. Special use permit is designed to show that there is something unique about the business that Council would want to put special conditions upon them such as hours of operation, design characteristics. Even though it would be allowed, it should have special criteria or additional conditions for that use.

Further discussion about arcades, theatres, sweepstake machines. If we were to allow sweepstakes machines, they would have to be hidden from children or something like that. Bus terminals would allow trolley but would need criteria regarding stopping at certain corners. We would put an "s" in front of the following items #4 Bus terminal, #19 Arcades and # 20 Theaters

Discussion of other uses: It was agreed that dance halls would not need a special use. Service station and car washes may want to restrict times of operation because of noise.

Action: Sec. 19-243, include 's' to signify special use for #4 Bus terminals, #10 Service stations with car wash, #19 Arcades, and #20 Theatres in permanent structures.

Page 1235- B-2 Neighborhood Business District. Discussion on allowable businesses in B-2 that are currently not included in B-1.

Action: Add to Sec. 19-243(18) in B-1 5331, 5399, 5712, 5722, 5731; Sec. 19-264 (5) Parking lots gets an 's' for special uses.

Further discussion of anything else to add in B-2 not already in.

Discussion of B-1 and B-2 areas and keeping consistent.

Advice from Councilman Nelder: The east side of 3rd Ave is residential but is zoned B-2. People can tear out houses and put up motels, retail stores, general merchandise. Multiple use was discussed. Some lots are technically in business district.

Councilman Nelder thinks this issue would fall into form based planning.

Discussion on permitting possible business on lower level and residence on top.

Action: Sec. 19-264 Permitted uses in B-2 we are comfortable and don't want to add any.

Page 1237-B-3 District

Discussion about which ones need 's' for special use?

Action: Put an “s” for (5) Schools institutions of an educational nature; (9) Hospital and clinics (11) Colleges , business colleges, etc.
Put “s” for (3) through (15) B-3 ‘s’ -- all but not 1, 2, and 16 .

There was further discussion of whether to eliminate some from B-3. Discussion on vacant land of what could be allowed.

Councilman Nelder says he wants to regulate vacant land. Member Brodsky doesn't want to limit potential for growth.

Action: Sec. 19-314 Purpose - Eliminate testing of corrosion.

There are no special uses in this section.

Sec. 19-315. Permitted Uses. -- There are no special uses in this section. Eliminate item (2) relating to laboratories and renumber the section.

RB-1 Residential Business District, Section 19-303 Permitted Uses

Action: Place ‘s’ for (6) and (7)

RA- 1

Action: Put an ‘s’ for (3) Colleges, schools, etc.

RA-1 Permitted Uses and B-1

Action: Add language for permitted uses for home occupation. Use same language as defined Sec. 19-1 to be consistent.

After review and discussion, the committee on the following action:

RA-2 Sec. 19-152 -- (5) Colleges, schools gets ‘s’ for special use.

RA-2A – Sec. 19-167 -- Add home occupation as defined in Sec. 19-1.

RA-2T – 19-177 #(6) “s” in front of Colleges, schools, public libraries — already allows home occupations.

RA-3—Put “s” for paragraphs (2), (5), (8) and (9). Discussion of being too restrictive, this will be revisited again.

RA-3A—no need for any special use.

RA-4—mostly residential, no changes.

Division 1. Generally --Sec. 19-79 Add the following paragraph.

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 shall classify it with the use in the table most similar to it. If 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.

This allows a business to have multiple uses if they are all permitted but cannot add a use that is not permitted.

Sec. 19-82 Special use permits. This section talks about special uses – Inspector Batson suggested that language should be added to this section to identify special uses. Add language that permitted special uses are identified with a (s). Add to the end of the first paragraph.

All agreed that before the final version of changes is completed, committee would like to see the list as discussed in the minutes.

MOTION: Member Brodsky moved to table further discussion and approval of the final version until next meeting.

SECOND: Member Schutta

VOTE: Unanimous

VI. NEW BUSINESS

- Sandman Property – Inspector Batson said that Council asked to get a survey and see where easements were and draft that up and see where that is for now.
- Chairman Galbraith reviewed the requirement to report proposed expenditures for finance purposes (capital expenses) The only ones would be consultation, engineering study costs for the form based planning.
- Discussion regarding turning condominiums into townhouses. Inspector Batson suggested doing due diligence to see if it can be done legally. This issue was discussed at a previous meeting several months ago. Councilman Nelder said this issue has appeared in the paper recently. Inspector Batson stated that the language was changed for acceptance of side-by-side units but not for over and under. There was discussion of the legal issues of deeding over and under. The P&Z voted against separating at that time. He suggested passing on to Council and homeowners that we discussed this issue and rejected the separation of condos and we will reopen. Councilman Nelder is concerned that if once allowed, it will open up and will open the flood gates for more and more like in other areas. The issue is the condominiums are already separate units and now want to convert by definition into townhouses. Chairman Galbraith suggested adding this issue as an item on the agenda for next month with the minutes from the earlier conversations at other meetings and perhaps get advice from attorney.

VII. MEMBER ITEMS

Discussion about members and chair position for 2011. Agreement by Chairman Galbraith to continue to chair the commission.

MOTION: Member Brodsky moved to accept Chairman's agreement to continue to chair commission and all positions stay as they are.

SECOND: Member Schutta

VOTE: Unanimous

VIII. ADJOURNMENT

MOTION: Member Brodsky moved to adjourn the meeting

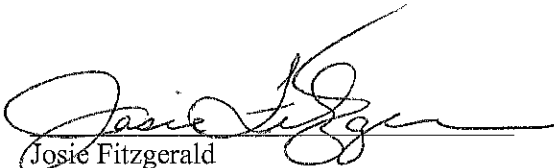
SECOND: Member Bullard

VOTE: Unanimous

Meeting was adjourned at 8:43 p.m.



Craig Galbraith, Chairman



Josie Fitzgerald
Administrative Assistant

SPECIAL USE PERMIT

Special use is designated to show that there is something unique about the business and would require special conditions placed upon them. Those business are identified with an (s)

SECTION	DISTRICT	
19-243 Permitted Uses	B-1	SIC codes/categories Identified with (s) (4) Bus terminals (10) Service Sta. w/car wash (19) Arcades (20) Theaters
19-243(18)	B-1	Add SIC codes - Sec.243(18) in B-1 5331, 5399, 5712, 5722, 5731
19-264(5)	B-2	Identify following with (s) Parking lots (7521) to be consistent with B-1
19-282	B-3	Identify following with (s) (3) Hotels, motels (7011) (4) Conference Center (5) Schools (8211) (6) Public buildings & facilities (7) Churches etc. (8661) (8) Museums, art galleries, libraries (8221, 8211, 8231) (9) Hospital and clinics (8062) (10) Banks, etc. (6021, 6022) (11) Colleges, business etc. (12) Food stores, personal service establishments (4451,7231,7241,5611 &5651) (13) Offices for professional business activities (80-11,21,31,41,42,43,49; 8711,12,21; 8111) (14) reserved (15) Accessory uses incidental to permitted uses
19-314	B-4	Eliminate the words "corrosion testing"
19-315	B-4	Eliminate (2) Laboratories to include, chemical, clinical, dental, medical, environmental, etc.
19-303	RB-1	Identify following with (s) (6) Restaurants (7) Food stores with or w/o gas pumps, drug stores, barber and beauty shops (7231 & 7241)
19-91	RA-1	Identify following with (s) (3) Colleges, schools, public libraries, public museums, art galleries, etc. (8221, 8211, 8231)

19-92	RA- B-1	Identify SIC codes/categories with (s) (3) Colleges, schools, public libraries, public museums, art galleries, etc. (8221, 8211, 8231) Add Home Occupation as defined in 19-1
SECTION	DISTRICT	
19-152	RA-2	Identify following with (s) (5) Colleges, schools, public libraries, etc.
19-167	RA-2A	Add - Home occupation as defined in 19-1
19-177	RA-2T	Identify SIC codes/categories with (s) (6)Colleges, schools, public libraries
19-187	RA-3	Identify following with (s) (2) Boarding houses, guest houses, etc. (5) Schools, institutions, etc. (8) Public museums, art galleries, etc. (9) Hospitals and clinics
19-79 District regulations	Gen.	ADD paragraph - <i>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 shall classify it with the use in the table most similar to it. If 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.</i>
19-82 Special Use Permits	Gen.	ADD to end of first paragraph language that permitted special uses are identified with an "s" i.e. A special use is designated to show that there is something unique about the business and would require special conditions placed upon them. Those businesses are identified with an (s)