

KURE BEACH PLANNING & ZONING COMMISSION  
REGULAR MEETING ♦ Tuesday, February 5, 2013

A regular meeting of the Kure Beach Planning and Zoning (P&Z) Commission was held on Tuesday, February 5, 2013. A quorum of the Commission was present.

**P&Z MEMBERS IN ATTENDANCE**

Chairman Craig Galbraith  
Member Tom Theisen  
Member Alan Votta  
Member Joe Whitley

**ABSENT**

1 vacancy

Liaison Emilie Swearingen

**STAFF PRESENT**

John Batson, Building Inspector  
Josie Fitzgerald, Administrative Assistant

**I. CALL TO ORDER:**

Chairman Galbraith called the P&Z meeting to order at 7:00 p.m.

**II. APPROVAL OF AGENDA:**

**MOTION:** Member Whitley moved to adopt the Agenda.

**SECOND:** Member Theisen

**VOTE:** Unanimous

**III. APPROVAL OF MINUTES:**

**MOTION:** Member Theisen moved to approve the P&Z minutes of January 9, 2013

**SECOND:** Member Whitley

**VOTE:** Unanimous

**IV. MEMBER ITEMS:**

a. Election of 2013 Commission positions:

Member Whitley nominated Craig Galbraith for Chairman

**MOTION:** Member Whitley moved to elect Craig Galbraith for Chairman for 2013

**SECOND:** Member Votta

**VOTE:** Unanimous

Member Votta nominated Joe Whitley for Vice Chairman

**MOTION:** Member Votta moved to elect Joe Whitley for Vice Chairman for 2013  
**SECOND:** Member Theisen  
**VOTE:** Unanimous

- b. Member Galbraith was reappointed by Council to serve on the Planning and Zoning Commission for another five-year term.
- c. Vacancy update –The vacancy has been posted on the bulletin board and on the Town website. No newspaper advertisement since in the past it was proven to be costly with little to no response. No applications have been received for consideration to date.

There was discussion on what might be done to solicit for this vacancy as the Commission would like to have a full faction as soon as possible.

It was suggested to reach out to other committees – can an email be sent to the other committees?

Chairman Galbraith attended the recent Chairs Committee meeting and noted the vacancy

## V. OLD BUSINESS:

### A. Potential K Avenue mixed-use plan (Conditional Use Permit)

- Attorney Moore submitted Coates’ Canons: NC Local Government Law Blog: A conditional What? Clarifying Some Confusing Zoning Terminology for review.
- Member Galbraith presented information obtained from the Town of Garner, NC which included a definition of an overlay district. There was emphasis on “additional requirements of the overlay district...and, “Overlay zones are not required to be mapped on the official zoning map if the description of such zones in zoning ordinance is sufficient to define their extent and application to specific properties.”
- K Avenue fits the description of an overlay district and can be defined as such. Further conditions would then be outlined as: A. Purpose and intent; B. Overlay zone; C. Location; D. Permissible and prohibited uses; and E. Application.
- The language in the Garner article can be used for the most part, expanding the application process and requirements for a “special use permit” as we discussed in the January meeting to revise our zoning ordinance.
- This has passed the threshold of acceptance since it has been passed in Garner for the Timber Drive corridor and it is suggested to use the verbiage as set forth.
- Member Theisen presented suggestions of the purpose of the K Avenue mixed use zone consistent with the Town of Kure Beach Land Use Plan adopted in 2006.
- The location will be defined as the lots fronting the length of K Avenue from Third Ave. to Seventh Ave.

- There was discussion regarding permissible and prohibited uses; what uses were already allowed in the district and what uses will be prohibited and/or regulated. Will additional uses be defined?
- There was discussion of current permitted uses in RA-1 District as being one-family dwellings; churches and other places of worship, including parish houses and Sunday schools; colleges, schools, public libraries, public museums, art galleries and other public buildings, accessory buildings and home occupations.
- RA-2 District permits one and two-family dwellings, offices, customary home occupations, churches, colleges and accessory buildings
- There was discussion on permitting the current uses with regulations and making more restrictive or conditional.
- There was a suggestion to define for example what kind of a school would be permissible and those that would be prohibited.
- It was suggested to come up with an actual list of what would be permissible in the overlay district, i.e. allow what is already allowed in the residential district and also permit light retail such as art galleries and light food service such as coffee house, gift shop and some recognized professions.
- The list of permitted uses would be the following:
  1. Churches and other places of worship, including parish houses and Sunday schools;
  2. Colleges, schools, public libraries, public museums, art galleries, and other public buildings;
  3. Offices of resident members of a recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on in the premises.
  4. Customary home occupations.
  5. Light retail and light food service.
- We will need a definition for this category and a corresponding SIC code. B-1 is more specific citing eating and drinking establishments (5812, 5813)
- We will come back to light retail and light food service for language and SIC that will be appropriate.
- All the permitted uses would have to meet all the requirements for parking, occupancy, etc.
- Prohibited Uses will be all that are not currently permitted
- The Application process- Applicants for a use permitted in the K Avenue Mixed Use District must apply for a Special Use Permit from the Town of Kure Beach with approval from Building Inspector, P&Z and Town Council.

As part of the special use permit application process, the applicant must submit:

- A. Elevation and appearance of the structure.
- B. Proposed plan for signage
- C. Proposed site plan requirements consistent with Sec. 19-83 (1) through (11)

- Recommended that applicant present plans for a preliminary review
- Discussion on need for preliminary informal hearing.
- Process can be a three-step process, first step is to bring intentions to Building inspector, Step 2 review by P&Z, Step 3 to Town Council
- Recommended to keep the process simple and informal

**MOTION:** Chairman Galbraith moved to have a draft drawn based on the K Avenue Mixed Use Overlay District discussions and review at the next meeting for fine tuning.  
**SECOND:** Member Theisen  
**VOTE:** Unanimous

Discussion on removing some permitted uses in RA-1 such as churches and schools. Some type schools could create a problem.

RA-1 District is pretty narrow

RA-2 District is basically the same

RA-2A District doesn't allow those same uses

RA-2T District is fairly broad

RA-3 District allows boardinghouses, guest houses, tourist homes, apartment houses, hotel, motels with restaurants, schools, churches, convents, hospital and clinics, etc.

The current residential districts may need to be reviewed for possible changes

Further discussion regarding RA-3A and RA-4 Districts

The mixed use is created to encourage certain uses in the K Ave. District, but right now many of the uses are already permitted which doesn't seem right for residential districts.

Recommended to have attorney advise commission on permitted and non-permitted uses. The attorney will be requested to attend the next meeting and consider what type of commercial uses should be permitted in the various residential districts.

**MOTION:** Chairman Galbraith moved to request the attorney to attend the next meeting and we have on the agenda a review of the uses allowed in the various residential districts.  
**SECOND:** Member Whitley  
**VOTE:** Unanimous

## VI NEW BUSINESS

Town Clerk Avery -- presentation

- Town Clerk Avery presented advice and recommendation for use of attorney and authorization from Town Council.
- The Town budget allocates money for legal advice and P&Z should utilize legal services to avoid challenges and potential legal issues.
- Discussion on cost and efficiency of attorney attending all meetings and writing documents versus P&Z consulting attorney on an "as needed basis" and drafting ordinance for subsequent final approval by attorney.

- It is appropriate to have attorney look at the draft and finalize before presentation to Town Council, but if council feels it appropriate to have attorney attend every meeting, P&Z does not object.
- Recommendation to have attorney draft “all of the Special Use Process for the K Avenue corridor and will want a written attorney’s statement that the ordinance language has been reviewed and approved before presenting it to Council for consideration of public hearing and adoption along with a written statement from the P&Z” ...” to vote to amend the wording in Ordinance Sec. 19-339(5) and (6) Two (2) and Three (3) parking spaces respectively to read parking spaces in addition to residential requirement as per approval by the Building Inspector.”
- Recommendation to comply with Gen. Stat. 160A-383 and provide a written, signed statement by the chair when an ordinance is amended before going to Council to schedule a public hearing

**VII. ADJOURNMENT:**

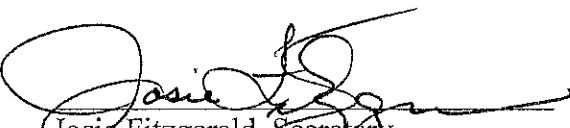
**MOTION:** Member Whitley moved to adjourn the meeting.

**SECOND:** Member Theisen

**VOTE:** Unanimous

**P&Z Meeting was adjourned at 8:20 p.m.**

  
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Craig Galbraith, P&Z Chairman

  
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Josie Fitzgerald, Secretary

## **K Avenue Mixed-use District (Overlay District)**

**Definition:** Overlay districts or zones are established to define certain subareas within which development is subject to restrictions over and above those applicable to the underlying district. Within these overlay districts, any development that occurs must be in compliance not only with the regulations applicable to the underlying district but also with the additional requirements of the overlay district. The "K Avenue Mixed Use District" is such an overlay district. Overlay zones are not required to be mapped on the official zoning map if the description of such zones in the zoning ordinance is sufficient to define their extent and application to specific properties.

### **A. Purpose and intent:**

1. Provide for development consistent with the Town of Kure Beach Land Use Plan adopted in 2006;
2. Allow commercial activity along K Avenue to provide a link between the Commercial District and a commercial area in the interior of the town that is zoned as neighborhood business and is in close proximity with key buildings such as the Town Hall and Fire and Police Stations;
3. Allow a mixture of complimentary land uses that may include housing, retail, offices, commercial services and civic uses, to create economic and social vitality;
4. Develop commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians;
5. Reinforce streets as public places that encourage pedestrian and bicycle travel;

**B. Overlay zone:** The K Avenue Overlay District is an overlay zone. The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. Where there is a provision not expressed in the underlying zone, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay ordinance shall be controlling.

**C. Location:** The K Avenue Overlay District shall apply to lots, parking the entire length of K Avenue between Third Avenue to Seventh Avenue.

### **D. Permissible and prohibited uses:**

1. Churches and other places of worship, including parish houses and Sunday schools;
2. Colleges, schools, public libraries, public museums, art galleries, and other public buildings;
3. Offices of resident members of a recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on in the premises.
4. Customary home occupations..
5. Light retail and light food service.

**E. Application:** Applicant for a use permitted in the K Avenue Mixed Use District must apply for a Permit from the Town of Kure Beach Building Inspector for preliminary review; thereafter the application will be presented for informal hearing before the Planning and Zoning Commission for recommendation and presentation to Town Council for a decision.

Applications for a use in the K Avenue Mixed Use District shall include a site plan prepared by a qualified professional based upon current land records information. The plan shall be drawn to an accurate scale and legible sizes as required by each parcel and contain the following information:

- (1) Names of the owner, developer and design professionals;
- (2) Scale, dimensions, date, north arrow, property boundaries;
- (3) Location, height, number of stories, floor area, setbacks and proposed uses of all structures;
- (4) Open space and recreational areas and impervious surface calculations;
- (5) Buffering and screening areas, fencing, walls and landscaping indicating the type, number and size of all plantings;
- (6) Location and geometry of all parking, loading and sanitation pickup;
- (7) Conceptual grading, site preparation and stormwater management plans;
- (8) Lighting details including type, location and radius and intensity in footcandles;
- (9) Location, height and dimensions of all proposed signs; and
- (10) Any additional conditions and requirements that represent greater restrictions on development and use of the site than the underlying zoning district.