

**KURE BEACH PLANNING & ZONING COMMISSION  
REGULAR MEETING ♦ Tuesday, June 4, 2013**

**A regular meeting of the Kure Beach Planning and Zoning (P&Z) Commission was held on Tuesday, June 4, 2013. A quorum of the Commission was present.**

**P&Z MEMBERS IN ATTENDANCE**

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

Liaison Emilie Swearingen

**ABSENT**

Member John Ellen

**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 Theisen moved to adopt the Agenda

**SECOND:** Member Whitley

**VOTE:** Unanimous

**III. APPROVAL OF MINUTES:**

**MOTION:** Member Votta moved to approve the P&Z minutes of May 7, 2013

**SECOND:** Member Theisen

**VOTE:** Unanimous

**IV. OLD BUSINESS:**

**Potential K Avenue mixed-use plan (Conditional Use Permit)**

Chairman Galbraith recapped what P&Z has been talking about for approximately one year.

- A draft was prepared in February of language to be considered. After looking at over 30-40 overlay districts, we took an intermediate approach, yet following the format of others.
- Definition, purpose and intent, we defined location, permissible and prohibited uses.
- We discussed the application

- We approved the language in the draft and asked attorney Moore to come in and give his recommendations before we present the draft to Council to see if language is appropriate under the laws of North Carolina.

**Attorney Holt Moore:**

- Had one concern as an overlay district because it contemplated a review process where there would be discretion when going to Planning Board and to Town Council.
- The only way to do that would be through a special use permit—adding or subtracting conditions
- A special use would be is it okay or not whereas an overlay there are additional requirements that are cut and dry that the inspector would check the box to see if it okay or not.
- An article cited by David Owen reinforcing attorney’s understanding that the only way to have “discretionary- type review” would be using a “conditional use” or “special use” which are interchangeable.
- A recommendation would be to make a list of things to identify that you could do with yes or no setup and if there are remaining items that don’t fit into that format, then put them into a special use setup with discretionary review.
- It was understood that there should be more detail and the application process should be more specific considering design, signs, and look at design elements.
- Attorney suggested to list conditions and specific criteria--we allow these by special uses; or call it an overly with restrictions and list the standards of the overlay.
- P&Z did not want to get into special zoning-- we don’t want to rezone.
- NC law is that if something isn’t defined, you don’t have authority.
- An overlay with the discretionary aspect could be problematic.
- P&Z should be able to come up with criteria as appointees of the elected officials.
- Public safety and welfare would be essential criteria, but not technical structural features.
- Several criteria can be established quickly, i.e. proposed sign standard, required lighting, landscape, fencing, buffering of air conditioning.
- Only one that may be more difficult would be exterior design elements specifying design, color, etc.
- Utilizing pictures as examples would be beneficial.
- Some jurisdictions have architectural committees

Based on attorney’s concerns and recommendations, P&Z needs to revisit the draft before presenting to Council.

- Special uses are listed and done with criteria with standards to be evaluated for parking-you have some discretion, but there needs to be some predictability to qualify with final call with the Town.
- Questions was can the wording of overlay district be used, but add in additional uses allowed in this overlay; i.e. you can have light retail, light food service but you need a special use permit to do what is on the list. Our ordinance already has language for special use permit process and that would kick in what is already in place.
- Further discussion on who would have the discretionary review. The building inspector would look at the application first for preliminary review, and then it goes to P&Z for informal hearing for recommendation and presentation, then to Council who would have final say.

- Special use permits are generally used when you already have an ordinance and these are uses that may not necessarily be quite accepted but can be with discretion for parking and lighting avoiding situations that could be a problem.
- “Harmonious” is a good term to include—is the use harmonious with the community and surrounding area. Health, safety and welfare of the community are important.
- As far as landscaping-request using plants and materials that are indigenous to this area.
- Signage and parking can be tightened up.
- Elevation and design would be the discretionary part.
- A special use can be recalled if the criteria and requirements are not met for a conditional use.
- Typically an “overlay” once approved it is approved and P&Z doesn’t have any further power to withdraw the use.

Chairman Galbraith suggested that this item be tabled to next month to pursue recommendations of attorney and fine tune the draft relating to signs, lighting, landscaping, etc. including appropriate details and include the word “harmonious” and tweak the language for the application.

**Assignments to work on elements and bring to next meeting:**

- Chairman Galbraith will work on the signs issue
- Member Theisen will work on landscaping
- Member Whitley will work on buffering the air conditioning, garbage areas.
- Member Votta will work on lighting

Revise E. Application: Applicant for a use permitted in the K Avenue Mixed Use District must apply for a Special Use Permit from the Town of Kure Beach for preliminary review; . . .

Also suggested- This is what you need for your application for a special use permit

- P&Z wants to be very careful to protect the people who are already there and err on the safe side.

Chairman suggested making a motion to continue this issue to the next meeting.

**MOTION:** Member Votta moved to continue discussion on the K Avenue Mixed Use Plan until the next meeting  
**SCCOND:** Member Whitley  
**VOTE:** Unanimous

**V. NEW BUSINESS**

Is there any information on digital window signs? They are clearly against the ordinance. The issue has been addressed

**VI. MEMBER ITEMS:**

Chairman Galbraith will not be available to meet in July. We have cancelled summer meetings in the past. It was suggested to cancel the July meeting and publish.

**MOTION:** Member Theisen moved to cancel the July P&Z meeting and resume in August.  
**SECOND:** Member Whitley  
**VOTE:** Unanimous

Council woman Swearingen updated P&Z on some issues Town Council his currently faced with and may or may not involve P&Z in the future.

**Renourishment:**

Re-nourishment issue at Carolina Beach that is being addressed. Kure Beach will not be done at this time.

**Wildlife:**

Designation of Pleasure Island as "wildlife endangered specie area" regarding turtles specifically. Council has requested a public hearing as regarding the impact on charter boats, tourism and economy. This designation could result in closing the beaches from April to October and no more building on the beach (if 50% of home is destroyed, cannot rebuild). No fires on beach, no walking, no dredging, no sitting, no re-nourishment, etc. no sand from inlets, etc. Freeman Park is only area exempt. This designation to protect the turtles is a very radical implementation.

**Off shore wind turbines:**

Construction of turbines off NC coast is imminent but may not affect us too much – The Will be closer to Oak Island although we may be able to see them in the distance.

**Homeowner insurance:**

Starting July 1<sup>st</sup> there will be a 19.3% increase for some home owners. The increase is higher than any other area on NC coast.

**Flood Insurance:**

Wrightsville Beach may have an increase of between \$18,000 and \$30,000. Our area may be less restrictive since our elevation is high

Further discussion on risk pool concept versus spot risk such as what the coastal area is faced. There is a potential possibility of self-insurance to offset high rate increases.

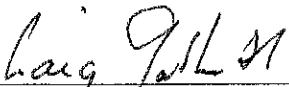
**VII. ADJOURNMENT:**

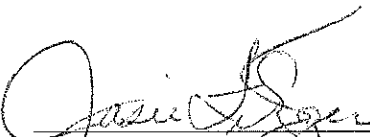
**MOTION:** Member Votta moved to adjourn the meeting.

**SECOND:** Member Theisen

**VOTE:** Unanimous

**P&Z Meeting was adjourned at 7:50 p.m.**

  
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Craig Galbraith, P&Z Chairman

  
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Josie Fitzgerald, Secretary