



AGENDA

Town of Kure Beach Historical Preservation Commission

Wednesday, April 7, 2021

A meeting of the Historical Preservation Commission will be held Wednesday, April 7, 2021 in the Council Chambers commencing at **6:00 PM**.

Page

1. CALL TO ORDER

2. ADOPTION OF THE AGENDA

3. ADOPTION OF MINUTES

- 3 - 4 3.1. February 3, 2021 Regular Meeting
[2021-03-03- HPC Minutes](#)

4. PUBLIC COMMENT

5. OLD BUSINESS

- 5 - 25 5.1. Continued discussion on proposed text amendments to the following sections of Chapter 15 Zoning of the Town of Kure Beach Code and on the zoning map amendment for the proposed Downtown Preservation Overlay District overlaying the existing B-1 Business District. (Eldridge)
- 15.08.100 Overlay Districts
 - 15.08.110 K Avenue Mixed-Use Overlay District
 - 5.08.120 Downtown Preservation Overlay District
 - 15.08.040 District Regulations

[proposed text amendments.historic district.v 2\(for council\)](#)
[ptas.15.08.040.v 2.\(for council\)](#)
[Design Standards.Final.Version 5.Redline.\(for Council\)](#)

- 5.2. Land Use Plan Update (Galbraith) - Reminder to complete the LUP Survey, it is on our website

6. NEW BUSINESS

7. ADJOURNMENT



HISTORICAL PRESERVATION COMMITTEE MINUTES

REGULAR MEETING

Wednesday, March 3, 2021 @ 6:00 pm

The Kure Beach Historical Preservation Commission (HPC) held its regular meeting on Wednesday, March 3, 2021. A quorum of members was present, and Attorney Jim Eldridge attended.

HPC MEMBERS PRESENT

Chairman Craig Galbraith
Member Kathleen Zielinski
Member Tony Garibay (VIA CONFERENCE CALL)
Member Jim Dugan

HPC MEMBERS ABSENT

Member Kenneth Richardson

STAFF PRESENT

Mandy Sanders, Town Clerk
John Batson, Building Inspector

CALL TO ORDER

Chairman Galbraith called the meeting to order at 6:04 p.m.

MOTION: Member Dugan made a motion to excuse Member Richardson from tonight's meeting.

SECOND: Member Zielinski

Vote: Unanimous

ADOPTION OF AGENDA

MOTION- Member Zielinski made a motion to adopt the agenda as presented.

SECOND- Member Dugan

VOTE- Unanimous

APPROVAL OF MEETING MINUTES:

- February 3, 2021 Regular Meeting

MOTION: Member Dugan made a motion to approve the February 3, 2021 Regular Meeting minutes as presented.

SECOND: Member Zielinski

VOTE: Unanimous

PUBLIC COMMENTS

None

OLD BUSINESS



HISTORICAL PRESERVATION COMMITTEE MINUTES

REGULAR MEETING

Wednesday, March 3, 2021 @ 6:00 pm

Chairman Galbraith stated they are waiting on Town Council to decide on the Downtown Preservation District and some of the other issues that related to the makeup of the Historical Preservation Commission.

NEW BUSINESS

1. Discussion of HPC Regular Meeting Schedule

Chairman Galbraith stated that if the Downtown Preservation District is adopted, the HPC primary duties would be to hold Public Hearings and write COA's as needed and that meetings would be infrequent.

Attorney Eldridge stated that regular monthly meetings for the HPC would need to be scheduled and then can be cancelled if there is no business.

Town Clerk Sanders states discussion will be tabled and we will come back to it after we look into the timelines from the statute.

2. LUP Survey Discussion

Chairman Galbraith reviewed proposed Land Use Plan (LUP) Survey. LUP Survey is hereby incorporated into he minutes.

Chairman Galbraith stated we will continue this discussion under Planning and Zoning Meeting starting after this meeting adjourns.

ADJOURNMENT

MOTION: Member Zielinski made a motion to adjourn at 6:35 p.m.

SECOND: Member Dugan

VOTE: Unanimous

**PROPOSED TEXT AMENDMENTS DESIGNATING THE DOWNTOWN
PRESERVATION AND HISTORIC DISTRICT**

(For Council Consideration and Action)

15.08.100 K Avenue Mixed-Use Overlay District ~~Overlay Districts~~

Definition. Overlay ~~zoning~~ 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~~ ~~comply~~ 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 overlay district" (referred to hereinafter as the "overlay district") is such a district. Overlay districts 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.~~

15.08.110 K Avenue Mixed-Use Overlay District

A. *Purpose and intent of the ~~overlay district~~ K Avenue Mixed-Use Overlay District ("MUOD").*

1. To provide for development consistent with the Town of Kure Beach Land Use Plan adopted in 2006;
2. To 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. To allow a mixture of complementary land uses ~~that~~ ~~which~~ may include housing, retail, offices, commercial services and civic uses ~~and~~ to create economic and social vitality;
4. To provide for the development of commercial and mixed-use areas that are safe, comfortable, and attractive to pedestrians;
5. To reinforce streets as public places which encourage pedestrian and bicycle travel.

B. *Relationship with underlying district.* The ~~overlay district~~ MUOD is an overlay mixed use district zone. The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. In circumstances where the underlying zone is silent, or where a provision hereof ~~is in conflict~~ ~~conflicts~~ with the underlying zone, the provision of the overlay ordinance shall be controlling.

C. *Geographic boundaries of district.* The ~~K Avenue mixed use overlay district~~ MUOD shall include and consist of lots the entire length of K Avenue between Third Avenue and Seventh Avenue. A condition of applying for a special use permit under the provisions of the overlay district is that any privately owned parking area intended to serve the subject project shall be

subject to the provisions of the permit (whether said parking is located in the ~~Overlay District~~ MUOD proper or not).

D. *Uses allowed in the ~~overlay district~~ MUOD (by special use permit only).*

1. Light retail (See retail, miscellaneous, KBC 15.02.010 for definition).
2. Light food service (primarily counter service); seating for no more than fifteen (15) customers.
3. Churches and other places of worship, including parish houses and Sunday schools.
4. Colleges, schools, public libraries, public museums, art galleries, and other public buildings.
5. Offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on within the premises.
6. Customary home occupations.

E. The following requirements and restrictions shall apply to the ~~overlay district~~ MUOD.

1. *Residential component.* Each special use must contain a residential component in compliance with the NC Building Code and other applicable codes and regulations.
2. *Signs.* Signs in the mixed use area should be small, relatively unobtrusive and compatible with the neighborhood. Towards this end, the following shall apply to the ~~overlay district~~ MUOD:
 - a. All regulations described in KBC 15.40.010 to KBC 15.40.120 apply to the overlay district.
 - b. In addition, the following regulations apply:
 - (1) Commercial signs may only be used in conjunction with an actual commercial activity occurring on the premises.
 - (2) A commercial sign may only be attached to the first floor of the building. Such attachment may either be flush or projecting.
 - (3) Only one (1) commercial sign is allowed for each building.
 - (4) Any lighting for the commercial sign must be external. No internally lit signs are allowed in this district. Lighting shall only be

allowed during the hours of operation for the business. Lighting for exterior signs must only illuminate the sign, and may not "spill over" to neighboring residences.

(5) The total area of the commercial sign shall not exceed six (6) square feet.

(6) It is encouraged that any commercial sign be attractive, and artistic, such as a carved wooden sign.

(7) As defined in KBC 15.40.050, no exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries are allowed. This includes tube lighting, string lighting, LED lighting, or typical holiday lighting. Exceptions to this are typical holiday lighting and decorations which contain no commercial message.

(8) Temporary "A" frame signs, or menu boards must be approved by the Town of Kure Beach Planning and Zoning Commission, to ensure that safety will be maintained, and that a reasonable time frame for use is established.

3. *Landscaping and hardscaping.* Landscaping or hardscaping of property between the street curb and buildings promotes and enhances a comfortable pedestrian scale and orientation. It encourages pedestrian use of the area.

The following design standards shall apply to development in the ~~overlay district~~ MUOD:

a. Landscaping.

(1) All usable open space, such as pedestrian walkways, separations between buildings, yard areas and common recreation areas should be landscaped and provided with an underground irrigation system, or an alternative equivalent system.

(2) Trees and plants indigenous to southeastern North Carolina are recommended.

b. Walls and fences.

(1) A four-foot high solid wall or fence should be constructed along the property line of any lot where construction of any residential/commercial mixed-use development is adjacent to property zone and /or used for residential purposes.

(2) Chain-link, barbed-wire, razor-wire and spikes are prohibited.

c. On-site tree preservation.

(1) All species of mature oak trees should be preserved and integrated into the project design unless it is shown to be infeasible. Mature trees are defined as trees having a diameter of thirty (30) inches or greater at a height of four and one-half (4.5) feet above adjacent ground.

(2) Removal of mature trees must be approved by the building inspector, to ensure that the circumstances present at the property warrant removal of the tree(s).

4. *Buffering.*

a. Shielding AC:

(1) In order to keep a harmonious look, HVAC units shall be in the back or side and concealed with landscaping or lattice, unless it can be shown that the same is not feasible. If the same is not feasible, additional screening may be required.

b. Shielding trash:

(1) Outside trash and garbage receptacles shall be no closer than five (5) feet from adjoining property lines.

(2) There shall be minimum visibility of outside trash and garbage receptacles from the street; all reasonable efforts in this regard shall be made, taking into account the following: (criteria for the type of screening to be used)

(A) The amount and size of receptacles shall be appropriate in light of the occupancy of the building.

(B) If enclosed, screening material should be consistent with the building.

(C) Recycling should be controlled such as minimize spillover.

(D) Dumpsters should be on a concrete pad so they can be washed and should be screened from neighboring properties.

5. *Lighting.*

a. A detailed lighting plan shall be submitted with preliminary drawings.

- b. Parking lot lights shall be shielded down, with the lights being not more than ten feet high.
- c. Commercial entrance lights shall be shielded down and directed at the entrance to the property.
- d. Flood and security lights shall be shielded and aimed such as to not create glare on adjoining properties.
- e. Accent lighting shall be low voltage and aimed at the objects to be accented only.
- f. All lighting shall be installed and aimed to minimize light trespassing across property lines.
- g. Restrictions:
 - (1) No lighting shall be aimed toward public streets causing public safety hazards.
 - (2) No laser lights are allowed.
 - (3) No search lights for advertising are allowed.
- h. Bare light sources (including, but not limited to, festive light strands, strands, incandescent, fluorescent, high intensity discharge, LED, fiber optics and neon) used to outline property lines, open sales areas, roof lines, doors, windows the edges of walls or any other area of the building or property visible from outside the building are prohibited, except for holiday lighting permitted from Thanksgiving through January 15th of the new year, unless approved as part of a planned lighting program. This section does not apply to a) security lighting with motion detection, b) emergency lighting and c) residential zones.

F. *Application.* An applicant for a use permitted in the ~~overlay district~~ MUOD must apply for a special use permit from the Town ~~of Kure Beach~~ and follow the process described in KBC 15.08.080 and KBC 15.08.090. Staff will review the application to ensure that it is complete, as to the provisions above and the special use requirements. Although an application may be complete, i.e. all of the requirements set out in this section have been addressed, the ~~Planning and Zoning Commission or~~ Town Council may place additional requirements or conditions on the proposal through the special use process.

15.08.120 Downtown Preservation Overlay District

A. *Purpose and Intent of the Downtown Preservation Overlay District (“POD”).*

1. Protecting and preserving, within the designated POD, important elements of the Town’s culture, history, and architecture.
2. Safeguarding the character and heritage of the POD by preserving the district as a whole and the properties therein which embody those important elements of the Town’s culture, history, and architecture.
3. Promoting the use and conservation of the POD for the education, pleasure, and enrichment of the residents of the district, the Town, and the State.
4. Stabilizing and enhancing property values within the POD which will improve the general health, safety, and welfare of the Town’s residents.

B. *Establishment of the POD.* The POD district is hereby established as a historic district overlaying the existing B-1 Business District, the extent and boundaries of which are as indicated on the Town’s official zoning map.

C. *Effect of the POD.* These POD regulations apply in combination with the underlying B-1 district regulations and all other applicable provisions of the KBC. In circumstances where the B-1 district regulations are silent or where the POD regulations conflict with the B-1 regulations, then the POD regulations shall be controlling.

D. *Allowed Uses.* All uses permitted in the B-1 district, whether by right or as a Special Use, shall be permitted in the POD district in accordance with the procedures established for such uses.

E. *Design Standards.* Buildings and structures within the POD shall comply with the Design Standards for the Kure Beach Downtown Preservation and Historic District (“Design Standards”).

F. *Certificates of Appropriateness.*

1. A **Certificate of Appropriateness** (“COA”) shall be required for any erection, alteration, restoration, relocation, demolition, or destruction of any exterior portion of any building, structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features), above-ground utility structure, or any type of outdoor advertising sign within the POD.
2. Where required, a COA shall be granted by the Kure Beach Historic Preservation Commission (“HPC”) prior to the issuance of a building permit and a building permit that is issued thereafter shall be in conformity with said COA.

G. Minor Work Excepted.

1. Nothing in this section shall be construed to prevent minor work on any exterior feature in the POD district. For the purposes of this section, “minor work” shall be interpreted and construed to mean ordinary maintenance, minor repairs, and other work which does not involve a substantial change in the design, material, or appearance of an exterior feature. Examples of such minor work are set forth in Sec. 3.2 of the Design Standards.

2. Minor work on exterior features within the POD may be administratively approved by the Town’s Building Inspector without a COA hearing before the HPC. The request for administrative approval of minor work shall be made to the Building Inspector in writing, describe the work to be performed, and show that the work complies with these standards. A dated letter approving or denying the request shall be issued by the Building Inspector to the applicant generally within two (2) business days after the date on which the Building Inspector received the request.

3. Appeals of administrative decisions for minor work shall be made in writing to the HPC and delivered to the commission’s Clerk within ten calendar (10) days after the date of the Building Inspector’s letter setting forth the administrative decision. The appeal shall be considered and acted upon by the HPC in a special or regular meeting conducted no earlier than ten (10) calendar days after the date on which the Clerk received the appeal. The HPC’s decision on the appeal shall be made in writing and delivered to the appellant, via personal delivery, electronic mail, or certified mail, return receipt requested, within ten (10) calendar days after the date of the hearing during which the appeal was taken.

H. COA Applications. Applications for a COA, and payment of any required fee, shall be made to the Building Inspector on forms available in the Building and Inspections Department no later than thirty (30) days before the date of the next regularly scheduled HPC meeting. Each application shall include sketches, drawings, photographs, specifications, descriptions, and/or other material describing the proposed work and how it complies with the Design Standards. Insufficient applications shall not be processed.

I. Staff Review and Report. The Building Inspector shall review each COA application under the Design Standards and the Review Criteria set forth in subsection L herein. Based upon the review, the Building Inspector shall provide a report on the COA application to the HPC. The Building Inspector may determine, based upon review of the application, that the proposed work constitutes minor work and may approve the same in the manner set forth in subsection G above.

J. Hearings and Notice.

1. The HPC shall follow quasi-judicial procedures in determining applications for COAs.
2. A notice of hearing shall be mailed to: i) the person or entity whose application is the subject of the hearing; ii) to the owner of the property if the owner is not the applicant; and iii) to the owners of all parcels of land abutting the subject property (“abutting” as used herein to be interpreted and construed as including those parcels directly across the street from the subject property).
3. The notice of hearing shall be deposited in the mail at least 10 days but not more than 25 days before the date of the hearing and within that same time period, notice of the hearing shall be posted on the subject property or on an adjacent street or right-of-way.
4. The HPC Clerk shall provide written certifications of the mailed and posted notice. The certifications shall become a part of the hearing record and shall be deemed conclusive in the absence of fraud.
5. The HPC Clerk shall transmit to the HPC all applications, reports, and written materials which are relevant to the matter being considered. These materials may also be distributed to members of the HPC prior to the hearing provided that at the same time they are distributed to the applicant and to the property owner if that person or entity is not the applicant. These administrative materials shall become part of the hearing record and may be provided in written or electronic form.
6. Objections to the inclusion or exclusion of administrative materials may be made before and at the hearing and shall be ruled on at the hearing.
7. The applicant, the Town, and any person or entity who would have standing to appeal the decision shall have the right to participate as a party at the evidentiary hearing and other witnesses may present competent, material, and substantial evidence that is not repetitive and is allowed by the HPC.
8. Objections concerning jurisdictional and evidentiary issues, including the timeliness of an appeal or the standing of a party, may be made to the HPC. The HPC Chair shall rule on any objection and the Chair’s rulings may be appealed to the full HPC which will decide the issue by a majority vote.

K. HPC Decision.

1. Provided a complete application for a COA is filed by the appropriate deadline, the HPC shall consider the application at its next regular meeting following the deadline.

2. The HPC shall review each COA application under the Review Criteria set forth in subsection L herein and take action to approve, approve with modifications, or deny the application.
3. Prior to taking final action on an application, the HPC shall make written findings of fact based upon the Review Criteria and Design Standards and indicating the extent to which the application is, or is not, compatible with the POD, the Review Criteria, and the Design Standards.
4. The HPC shall enter into the minutes of its meeting the findings of fact for the action taken.
5. The HPC shall make deliberate and render its decision in open session within a reasonable time and preferably during the meeting in which the application was considered heard.
6. The HPC's decision shall be set forth in writing, be based on the competent, material, and substantial evidence in the record, reflect the commission's determination of contested facts and their application to the Review Criteria and the Design Standards, be approved by majority vote by the HPC, and signed by the Chair.
7. The decision shall be effective on the date it is filed with the Town Clerk and shall be delivered within a reasonable time, via personal delivery, electronic mail, or certified mail, return receipt requested, to the applicant, the property owner if different from the applicant, and to any person or entity that submitted, before the effective date of the decision, a written request for a copy thereof. The person providing notice of the decision shall certify in writing that proper notice has been provided and the certification shall become a part of the hearing record and be deemed conclusive in the absence of fraud.

L. *Review Criteria.*

1. The regulations set forth herein and the Design Standards are intended to, insofar as is reasonable, ensure that the exterior portions of the buildings and structures within the POD shall be harmonious. However, it is not the intent of these regulations or the Design Standards to require the reconstruction or restoration of any buildings or structures, prohibit their demolition or removal, or impose any architectural style.
2. In determining COA applications, the HPC shall consider the historic and/or architectural significance of the building or structure under consideration, the exterior form and appearance of the proposed changes thereto, and the effect the proposed changes would have upon the other buildings and structures within the POD.

3. The HPC shall make no requirement except to prevent work that is incongruent with the POD.

4. COA Applicants shall consult the Design Standards which the Town will utilize in administering these regulations.

5. The HPC shall base its COA decisions concerning exterior form and appearance on the Design Standards and the following criteria:

- a. The setbacks, lot coverage, yards, orientation, and positioning of the building or structure;
- b. Materials, surface textures, and patterns;
- c. Architectural details;
- d. Roof shapes, forms, features, and materials;
- e. The proportions, shapes, positions, locations, and patterns of doors and windows;
- f. The general form and proportions of the buildings and structures; and
- g. Appurtenant features including, without limitation, walls and fences.

6. Nothing in the Review Criteria or in the Design Standards shall be interpreted or construed as preventing or restricting the authority to erect buildings to a height of 35 feet above ground level in accordance with N.C. Sess. Law 2006-126.

M. *Interior Arrangements Not Considered.* When determining COA applications, the HPC shall not consider the interior arrangement of the subject building(s) or structure(s).

N. *Relocation and Demolition.* Per N.C.G.S. § 160D-949, applications for a COA for the relocation, demolition, or destruction of a building or structure within the POD shall not be denied.

O. *Certain Changes Not Prohibited.* Nothing in these POD regulations or the Design Standards shall be construed to prevent the ordinary maintenance or repair of any exterior feature in the POD that does not involve a change in design, material, or appearance thereof nor to prevent the construction, reconstruction, alteration, restoration, relocation, or demolition of any such feature that the Building Inspector shall certify in writing is required for public safety because of an unsafe or dangerous condition. Nothing in these regulations or the Design Standards shall be construed to prevent a property owner from making any use of his property that is not prohibited by any other law.

P. *Successive Applications.* In the event the HPC denies a COA, a new application affecting the same property may be submitted if substantial changes are made in the original plans for the proposed work on the building or structure.

Q. *Appeals.* The applicant or the property owner if different from the applicant, may appeal the issuance or denial of a COA to the Kure Beach Board of Adjustment in the nature of certiorari within thirty (30) days after the date of their receipt of the written notice of decision. Any other person or entity who would have standing to appeal the decision, and who received notice of the decision in accordance with sub-sub-section 7 of sub-section K herein, shall have thirty (30) days from the date they received the notice within which to appeal to the Board of Adjustment.

R. *Lapse of Approval.* All COAs shall expire one (1) year from the date of issuance. The HPC may grant an extension of up to one (1) year provided the commission finds that substantial progress has been made under the COA or that the recipient encountered unforeseen difficulties which caused the delay.

S. *Compliance.*

1. Failure to comply with a COA shall constitute a violation of KBC Chapter 15 and shall be enforceable as provided for under KBC 15.42.010 *Civil Penalty*.
2. The discontinuance of work or the lack of substantial progress under a COA for a period of one (1) year shall be considered as a failure to comply with the COA and the enforcement of any remedy under Chapter 15 shall not prevent the application of any other remedy or remedies available under the Town's Code of other statutes, ordinances, or rules.

PROPOSED TEXT AMENDMENTS TO KBC 15.08.040
(For Council Consideration and Action)

Current Text:

15.08.040 District Regulations

Within the districts as indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or part for any use other than those listed as permitted for that district. A building or the use thereof may be considered changed when its form of occupancy or operation is substantially changed beyond those permitted uses as specified within the designated districts. A use not specifically addressed by the zoning ordinance shall be expressly prohibited so as not to alter or endanger the purpose of the zoning pertaining to each district and to ensure that the original intent and purpose as specified in G.S. § 160A-383 is maintained.

More than one (1) 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, KBC 15.08.050 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.

Proposed Amendments.

15.08.040 District Regulations (Redline) (blackline draft follows on page 2).

Within the districts as indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or part for any use other than those listed as permitted for that district. A building or the use thereof may be considered changed when its form of occupancy or operation is substantially changed beyond those permitted uses as specified within the designated districts. ~~A use not specifically addressed by the zoning ordinance shall be expressly prohibited so as not to alter or endanger the purpose of the zoning pertaining to each district and to ensure that the original intent and purpose as specified in G.S. § 160A-383 is maintained.~~ More than one (1) permitted use ~~can~~may be located on a particular site or within a particular building.

~~More than one (1) permitted use can~~may 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, KBC 15.08.050 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. Uses which are listed shall be liberally interpreted to include non-listed uses which have similar characteristics. A use that is not listed and that does not have characteristics similar to those of a listed use shall be interpreted as a use requiring a special use permit under the provisions of KBC 15.08.080 herein. ~~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.~~

PROPOSED TEXT AMENDMENTS TO KBC 15.08.040
(For Council Consideration and Action)

15.08.040 District Regulations (Blackline).

Within the districts as indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or part for any use other than those listed as permitted for that district. A building or the use thereof may be considered changed when its form of occupancy or operation is substantially changed beyond those permitted uses as specified within the designated districts. More than one (1) permitted use may be located on a particular site or within a particular building.

Uses which are listed shall be liberally interpreted to include non-listed uses which have similar characteristics. A use that is not listed and that does not have characteristics similar to those of a listed use shall be interpreted as a use requiring a special use permit under the provisions of KBC 15.08.080 herein.

DESIGN STANDARDS
KURE BEACH DOWNTOWN **PRESERVATION DISTRICT**



Published by the
Kure Beach Historic Preservation Commission
117 Settlers Lane
Kure Beach, NC 28449
February 3, 2021

TABLE OF CONTENTS

I. Preface.....2

II. Procedures for Amending the Design Standards.....2

 2.1. Amendments2

III. Required Approvals.....3

 3.1. COAs Required.....3

 3.2. Minor Works Excepted.....3

 3.3. COA Procedures for Non-Minor Work.....4

IV. Standards.....5

 4.1. General Standards.....5

 4.2. Specific Standards for New/Renovated Commercial Buildings and Additions.....6

 4.3. Specific Standards for New Residential Buildings and Structures.....6

 4.4. Specific Standards for Additions to Residential Buildings and Structures.....7

 4.5. Relocation, Demolition, and Destruction.....7

ARTICLE I. PREFACE

The objective of the Kure Beach **Downtown Preservation District** (the “District”) is to safeguard the heritage of the Town of Kure Beach (“Town”) by preserving important elements of its culture, history, and architecture and by promoting the use and conservation of the District for the education, pleasure and enrichment of the residents of the Town, the region, and the State. The District has an overall integrity of design, scale, setting, and materials which need to be maintained to preserve its unique character of a small-town, family-friendly 1940s to 1970s east coast beach town.

These standards specifically permit property development while ensuring the preservation of the District’s important elements and features which lend themselves to the unique character of the District.

These standards only address changes to the exterior features of buildings and structures within the District and are intended to assist property owners and the Town in determining whether the proposed changes are consistent and harmonious with the District’s neighborhood. These standards provide the Kure Beach Historic Preservation Commission (the “HPC” or “Commission”), Town Staff, and property owners with the minimum guidelines needed for making decisions on applications for Certificates of Appropriateness (“COAs”) which are required prior to making any changes to the exterior features within the District.

These standards will also enhance investment within the District and will increase public awareness of the District’s unique, small-town, family-friendly character.

DISTRICT BOUNDARIES

The District, a four-block area bounded on the East by the Atlantic Ocean, on the South by J Avenue, on the North by L Avenue, and on the West by Third Avenue, represents a mix of commercial and residential structures and contains the oldest buildings in the Town. The District is the Town’s only commercial district (*e.g.*, beach-oriented hotels, shops, and restaurants) and retains a character that is reflective and reminiscent of a 1940s-1970s coastal community. Also located within the District are several public beach access points, the Town boardwalk, and the Town’s beachfront park and pavilion. The Town’s only stop-lighted intersection (Fort Fisher Blvd and K Avenue) and the oldest fishing pier on the Atlantic coast (originally built in 1923) are also sited within the District.

ARTICLE II. PROCEDURES FOR AMENDING THE DESIGN STANDARDS

2.1. Amendments

The following procedure shall apply with respect to proposed amendments to these design standards:

- a. Upon a suggestion to amend these standards made by a member of the HPC, the Planning and Zoning Commission, or Town Council, the HPC Chair shall call for discussion on the proposed amendment.
- b. Following the discussion, the Chair shall request a motion to place the question of the proposed amendment on the agenda for a noticed special meeting of the HPC where the Commission will consider and act upon the proposed amendment.
- c. The notice of the special meeting shall state that the purpose of the meeting is to allow for public comments on the proposed amendment and that the Commission will consider and act upon said proposal.
- d. A majority vote shall be sufficient for adopting or denying the proposed amendment.

ARTICLE III. REQUIRED APPROVALS

3.1. COAs Required

Under the General Statutes of North Carolina and the Town of Kure Beach Code (“KBC”), a COA is required for the erection, alteration, restoration, relocation, demolition, or destruction of any exterior portion of any building, structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features), above-ground utility structure, or any type of outdoor advertising sign within the District (all collectively referred to herein as “Exterior Features”). Applications for a COA are decided by the HPC following a quasi-judicial hearing wherein the applicant presents evidence showing that the proposed Exterior Features comply with these design standards. The issuance of a COA by the HPC is required prior to the issuance of a building permit.

3.2. Minor Work Excepted

Minor work on Exterior Features, as defined in KBC Chapter 15 *Zoning*, may be administratively approved by the Town’s Building Inspector without a COA hearing. The request for administrative approval of minor work shall be made to the Building Inspector in writing, describe the work to be performed, and show that the work complies with these standards. A dated letter approving or denying the request shall be issued by the Building Inspector to the applicant generally within two (2) business days after the date on which the Building Inspector received the request.

Appeals of administrative decisions for minor work shall be made in writing to the HPC and delivered to the Commission’s Clerk within ten calendar (10) days after the date of the Building Inspector’s letter setting forth the administrative decision. The appeal shall be considered and acted upon by the HPC in a special or regular meeting conducted no earlier than ten (10) calendar days after the date on which the Clerk received the appeal. The HPC’s decision on the appeal shall be made in writing and delivered to the appellant within **ten (10)** calendar days after the date of the hearing during which the appeal was taken.

Minor work on Exterior Features which may be administratively approved includes the following:

- a. Painting which complies with these standards.
- b. Installation of window air conditioners, television antennas, and other temporary mechanical equipment provided they cannot easily be seen from the street or are screened from view with shrubbery or appropriate fencing.
- c. Repairs to walkways, patios, fences and driveways provided that the replacement materials match the original materials.
- d. Replacement of missing or deteriorated siding, trim, roof shingles, porch flooring, steps, etc. provided that the replacements match the original materials.
- e. Installation of storm windows and doors provided the trim color is white or matches trim color of the building, and the storm door is of the "full view" type.
- f. Installation of gutters and downspouts provided the color matches the trim color of the building and is harmonious with the color of the roof ventilators and chimney caps.
- g. Installation of house numbers, mailboxes, and porch light fixtures which are compatible and harmonious with the surrounding Exterior Features.
- h. Alteration or restoration of a medium to dark gray or black asphalt shingle roof.
- i. Alteration, restoration or erection of shutters or blinds which are **different from the original.** ~~to the building or identical thereto.~~
- j. Removal of aluminum awnings.
- k. Removal of cinderblock walk and steps.
- l. Removal of storm doors and windows which do not feature panels or decorative work.
- m. Removal of metal storage buildings.

3.3. COA Procedures for Non-Minor Work

Application for a COA and payment of the associated fee shall be made to the Town's Buildings Inspection Department no later than thirty (30) days before the date of the next regularly scheduled HPC meeting. Each application shall include sketches, drawings, photographs, specifications, descriptions, and other information clearly showing the proposed work and how it complies with these design standards. Insufficient applications shall not be processed.

The HPC hearing shall be noticed and conducted in a quasi-judicial manner in accordance with the provisions of N.C.G.S. § 160D-406 and the applicant shall be prepared to show, on the basis of the application and other additional materials, documents, or exhibits which the applicant may want to submit into the record of the proceedings, that the proposed Exterior Features comply with these design standards.

All decisions by the HPC in granting or denying a COA shall be made in open session during the meeting in which the application is considered and may be appealed to the Kure Beach Board of Adjustment in the nature of certiorari and within the times prescribed for appeals of decisions in N.C.G.S. § 160D-405(d).

ARTICLE IV. STANDARDS

4.1. General Standards

a. The erection, alteration, restoration, or relocation of any Exterior Feature should have the look and aesthetic of a 1940s to 1970s building, and not be of modern or expressionist design. Exterior Features should be consistent and harmonious with the other Exterior Features within the District in terms of scale and design. Inappropriate modernist or expressionist architectural design elements include but are not limited to construction consisting of or containing predominant glass elements, glossy materials, round window features, exposed steel elements, broad roofs, or exaggerated overhangs.

For the purposes of these standards, “modernist architectural design” shall be interpreted and construed to mean an architectural style characterized by an emphasis on volume, asymmetrical compositions, based or linked boxes, minimal ornamentation, and vertical elements juxtaposed against horizontal elements for dramatic effect. “Expressionist architectural design” shall be interpreted and construed to mean an architectural style using materials such as brick, concrete, metals and glass to create novel and sculptural forms and massing which are sometimes distorted and fragmented to express an emotional perspective or an abstraction; a style which rejects historical styles, symmetrical forms, and traditional designs and which can result in unique exterior Features which stand out and are distinctive from their surroundings.

b. Colors on Exterior Features should be consistent and harmonious with the District’s neighborhood. For example, there should not be any pattern color designs such as those often associated with franchise operations nor should there be any striped or banded coloring/painting.

c. Building facades should be simple, and not consist of multiple sizes. Roofs should be uniform and roof features, uneven roofs, or oversized roofs should be avoided.

d. Design features, including windows and doors, should be normal scale. No large-scale windows or doors and no single architectural feature of an Exterior Feature should dominate the appearance of the building/structure.

e. In determining COA applications, the use of the property and the interior arrangements of the subject buildings/structures shall not be considered.

f. Nothing in these standards shall be interpreted or construed as preventing or restricting the authority to erect buildings to a height of 35 feet above ground level in accordance with N.C. Sess. Law 2006-126.

4.2. Specific Standards for New/Renovated Commercial Buildings and Additions

a. New and renovated commercial buildings and structures shall be designed with an architectural scale that is consistent and harmonious with the neighborhood and shall utilize details and elements, including but not limited to cornice lines, belt courses, fenestration bands, height, material selection, roof form, and street walls, which contribute to integrating the building/structure into the character of the site and the surrounding properties.

b. New and renovated commercial buildings and structures shall be designed so that a pedestrian's experience of the District's unique character is maintained.

c. There shall be no drive-through, curbside, or take-out operational services constructed within the District provided that walk-up service windows shall be permitted.

d. Exterior Features within the District shall not contain commercially oriented architectural features which are typically seen on franchise buildings such as golden arches, clowns, and/or towers/facades/uneven construction designed to emphasize franchise images, signs or logos.

e. All buildings on K Avenue between Atlantic Avenue and Fort Fisher Boulevard shall be commercial in nature. While mixed uses are permitted for multiple story buildings, the first floor of any such building shall be commercial in nature.

f. The signage for all commercial buildings and structures within the District shall be exterior lit only provided that small "open" window signs are permitted provided they comply with the sign regulations of KBC Chapter 15 *Zoning*.

4.3. Specific Standards for New Residential Buildings and Structures

New residential buildings and structures shall be designed with an architectural scale that is consistent and harmonious with the District's neighborhood and is compatible with the surrounding buildings and structures which contribute to the District's special character in terms of height, form, size, scale, massing, proportion, architectural style, and roof shapes.

4.4. Specific Standards for Additions to Residential Buildings and Structures

Additions to residential buildings and structures shall be permitted provided they are consistent and harmonious with the District's neighborhood and designed so that the overall character of the site, including trees and significant vistas of the District, are maintained.

4.5. Relocation, Demolition, and Destruction

COA applications for the relocation, demolition, or destruction of a building or structure within the District shall not be denied.