



KURE BEACH PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
April 9, 2019

The Kure Beach Planning & Zoning Commission held their regular meeting at Town Hall on Wednesday, **April 9, 2019**. A quorum of commission members was present.

P&Z MEMBERS PRESENT

Chair Craig Galbraith
Vice Chair William Moore
Member Kenneth Richardson
Member Retha Deaton
Member Robert Young

P&Z MEMBERS ABSENT

Alternate Member David Garceau

STAFF PRESENT

John Batson – Building Inspections
Kathleen Zielinski – Secretary

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Commissioner Joseph Whitley, Council Liaison  
Attorney James E. Eldridge

**1. CALL TO ORDER**

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

**2. ADOPTION OF AGENDA**

**MOTION** – Member Richardson moved to adopt the agenda as presented

**SECOND** – Vice Chair Moore

**VOTE** – Unanimous

**3. APPROVAL OF MEETING MINUTES:**

**MOTION** – Vice Chair Moore moved to approve the minutes for the February 6, 2019 Regular Meeting as presented

**SECOND** – Member Young

**VOTE** – Unanimous

**MOTION** – Vice Chair Moore moved to approve the minutes for the March 20, 2019 Special Meeting as presented

**SECOND** – Member Richardson  
**VOTE** – Unanimous

#### **4. PUBLIC COMMENTS**

Mr. Steve McCurry made a request to move the meeting date for May to accommodate Inspector Batson's schedule. He was advised that the date of the next meeting will be addressed later in the meeting at Item 8 on the agenda.

#### **5. OLD BUSINESS**

##### **a. Downtown Mixed-Use Overlay District**

Chairman Galbraith stated that he researched 20-30 overlay districts related to what the commission is trying to accomplish and created a PowerPoint presentation for starting the process. He considered character preservation of the overlay district to be closest to Council's assignment and cited the City of Raleigh as a good model to follow. He said that several municipalities utilize a certificate of appropriateness (COA) process as a way to preserve a particular character and outlined the approach:

- A separate COA board issues major COAs
- Minor COAs are issued by staff
- Defining the difference between major and minor is needed
- Review is based on written guidelines that will need to be written to include intents
- A chart designates minor versus major work and the processes for each

The chairman then went on to share what he had learned about design guidelines. Key points of what he ascertained include:

- Some towns limit use in the overlay while others focus on design and rely on the underlying zoning map for allowed uses
- Can be very simple or quite complicated
- Design guidelines focus on building exteriors
- Consistency is very important

Three towns that Chairman Galbraith used for examples were Raleigh, Chapel Hill and Bolton, MA. Raleigh and Chapel Hill regulate their overlay districts with Certificates of Appropriateness while Bolton, MA utilizes Special Use Permits (SUP) and the chairman presented highlights from each. His concentration was on commercial and he stated that if residential is involved more research will be needed.

The presentation ended with a color-coded map of the districts in the downtown area and the chairman's suggestion to follow the COA model. He then asked the attorney for guidance regarding how specific they need to be or how broad they can keep it. He also asked the commission members for their thoughts on keeping the overlay for only the downtown district or extending it into surrounding districts.

Attorney Eldridge expressed his appreciation for the chairman's research and presentation, but stated that he has questions. He observed that the discussion of COA versus SUP does not seem to focus on controlling use. He asked, for example, if a McDonald's restaurant could come in and

be permitted as long as it fits the design. The chairman responded that yes, it could, but that elements could be regulated such as no drive-through, no golden arches, certain colors and materials. We cannot restrict a restaurant, but we can control the design.

Attorney Eldridge then stated that if you are concerned about uses coming in, you may want to check on special use. He said that, under SUP, the deciding body has discretionary control and questioned if there is authority to impose conditions with an approval under the COA process. The chairman replied that he could not find any COA that controls special use.

Other points made were:

- Each separate process can do some but neither may be able to do all
- Raleigh's examples are geared primarily toward controlling historic districts
- Statute prohibits residential guidelines
- More research is needed

Attorney Eldridge said that he would be glad to look at Raleigh to further understand these concepts. The approach is good, but these issues need to be looked into further.

Chairman Galbraith then opened the discussion up to the commissioners. Input included:

- The overlay should include districts B-1, B-2, RA-2 and RA-3
- Inquire of Council if they want to include only non-residential construction
- Encourage commercial type business on ground level with residential above due to limited footprint
- Extend mixed-use overlay from K Avenue
- If regulations are general to provide wiggle room that gets into quasi-judicial due to discretionary decision at which point the COA would be ineffective
- Attorney Eldridge will bring back findings next month about COA authority and design guidelines in Raleigh.

Chairman Galbraith stated that the decision to go outside the B-1 district and whether to regulate residential are still to be made. He added that the process for establishing an overlay district is not as complicated as he had first thought it might be.

Member Richardson proposed a footprint for the overlay district to include I Avenue to the RA-2 district on 4<sup>th</sup> Avenue S to the B-2 district, and include B-2, B-1 and RA-3 along Fort Fisher Blvd S. He said this footprint captures five or six businesses outside the B-1 that would not fall under the regulations of the overlay district. He will put together a map to illustrate this for the next meeting.

Chairman Galbraith stated that he will bring recommended design standard models. He would also like to have counsel look at COA versus special use permit processes and added that there are many other things to consider as they move along.

- b. Chapter 19 text amendment and associated consistency statement to add SIC Code 7999 and golf cart rentals to permitted uses for the B-1 District

Attorney Eldridge presented redline and blackline versions of the proposed text amendment to Section 19-243 and associated consistency statement for adding golf cart rentals to permitted uses in the B-1 district. An "S" to indicate a special use will accompany golf cart rentals.

**MOTION** - Member Richardson moved to recommend the text amendment to Chapter 19 to Town Council

**SECOND** – Member Deaton

**VOTE** - Unanimous

**MOTION** – Vice Chair Moore moved to send the associated consistency statement to Town Council

**SECOND** – Member Richardson

**VOTE** - Unanimous

Said text amendment and consistency statement are herein included as part of these minutes.

## **6. NEW BUSINESS**

### **a. Special Use Permit application from Sun Fun Rentals**

Inspector Batson informed the commission that Sun Fun Rentals had submitted an application to operate a golf cart rental business beside the gas station in downtown Kure Beach. He said that the proprietor, Sheila Emblar, is present to answer questions that the Commission may have regarding the application. The application packet includes the completed special use permit application, an authorized agent appointment, a site plan and a letter from Sun Fun Rentals outlining their business plan.

Attorney Eldridge reminded the members that the job of P&Z is to review and recommend to Council their opinion. The recommendation may include conditions that will keep the use harmonious with the area. He added that when this goes before Council it will be heard in a quasi-judicial setting. He then brought attention to the four general conditions on the application set forth in town ordinance that must be satisfied.

Ms. Emblar then stood to address the Commission. She stated that she started in business in Carolina Beach in 2014 with golf cart sales, rentals and service, and last year started a taxi business. When looking to further improve the business the one thing that kept coming back was Kure Beach. They would like to cater to the customers here so they would not have to travel to Carolina Beach. The location fits their needs and intentions to comply with ordinances, setbacks and fitting into harmony of Kure Beach.

Ms. Emblar added several points in reply to questions from the commissioners:

- Golf cart sales would be an option only if possible.
- Business would operate seven days a week from May to October, limited days during the off-season.
- The golf carts comply with DOT standards for motor vehicles.
- Taxi drivers are licensed.
- They do not utilize medallions as done in Wrightsville Beach
- Sun Fun Rentals has written rules and regulations.
- There will be a station area for charging taxis to service this community.
- There are many building design options and they will abide by P&Z preference.
- Maintenance of carts will be performed at their Carolina Beach location.
- 80% of customers are tourists.
- A structure is needed to provide employees protection from the heat.

- How many they will store will depend on how many can fit on the lot. Off-season all the carts are pulled in.
- A pole and corded barrier will contain the business.
- The lot will not be shared.

Chairman Galbraith would like to recommend that council approve the application, subject to two conditions:

- present what signage will look like
- C cabin shown on Premier advertisement

Several questions were raised concerning the number of carts that would be kept on the lot. Ms. Embler explained that six-passenger carts require more space than four-passenger carts and the number of each would determine the total number of carts. She added that the lot would be organized with designated parking spots so that carts are not strewn about.

When asked by Attorney Eldridge if there are any things she has witnessed in Carolina Beach of which this commission should be aware, Ms. Embler replied that they have had very few issues and they purposely built the business slowly to avoid running into problems. They have had no reported injuries and the carts have switches and GPS tracking mechanisms to prevent theft. The company provides a brochure outlining dos and don'ts, stressing strongly that this is like driving a car and should be treated as such.

Member Richardson stated that downtown traffic during the season could be problematic and suggested that a third condition for approval should be, if recommended by the Police Chief, to have the carts exit onto Third Ave S. only or right-turn only when exiting onto Fort Fisher Blvd. S.

It was then suggested as a fourth condition that the company maintain all appropriate insurances to which Ms. Embler stated that would not be a problem since they carry million dollar liability, general liability and umbrella insurance policies.

**MOTION** - Chairman Galbraith moved to recommend approval of the special use permit by Council with five conditions:

- Signage to conform with Chapter 19
- C cabin design from Premier
- Designated parking spots
- Right turn only to exit
- Adequate insurance maintained by applicant

Chairman Galbraith added that lighting should be shown to Council, ensuring that the location is appropriate and does not interfere with residents. Ms. Embler noted that the hours of operation will be 9-5 in season, but a taxi can have access to plug in after 5:00.

**SECOND** – Vice Chair Moore

**VOTE** – Motion passed 4-1 with Member Deaton dissenting

Attorney Eldridge will prepare the documents for presentation to Council.

Said application is herein included as part of these minutes.

## 7. MEMBER ITEMS

- a. Chairman Galbraith stated that the next agenda will include a broad discussion about changing the SIC codes of permitted uses to specifically prohibit things in certain zoning districts.
- b. The issue of instating a moratorium during the overlay district process will be discussed at the April Town Council meeting.

## 8. NEXT MEETING

Inspector Batson will be unable to attend the next regularly scheduled meeting, but will be back May 4 and available the following week.

**MOTION** – Chairman Galbraith moved to change the next meeting date to May 8, 2019 at 7 p.m.

**SECOND** – Member Young

**VOTE** – Unanimous

## 9. ADJOURNMENT

**MOTION** – Member Deaton moved to adjourn

**SECOND** – Member Richardson

**VOTE** – Unanimous

Meeting was adjourned at 8:38 p.m.

  
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Craig Galbraith, Chairman

  
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Kathleen Zielinski, Secretary

NOTE: These minutes reflect items considered and actions taken by the Planning & Zoning Commission and should not be considered a transcript of the meeting. An audio recording of the entire meeting can be found on the Town of Kure Beach website.