

KURE BEACH PLANNING & ZONING COMMISSION
REGULAR MEETING ♦ MARCH 2, 2010

A regular meeting of the Kure Beach Planning and Zoning Commission was held on Tuesday, March 2, 2010 at 7:00 p.m. A quorum was present.

MEMBERS IN ATTENDANCE

Members – Jim Schutta, Alan Votta, Tim Bullard and Craig Galbraith

MEMBERS ABSENT

STAFF IN ATTENDANCE

Building Inspector John Batson
Commissioner Liaison Barry Nelder
Secretary Aimee Zimmerman
P&Z Attorney Holt Moore

CALL TO ORDER:

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

APPROVAL OF MINUTES

February 2, 2010 Regular Meeting.

Member Bullard stated that on page three of the Minutes, it references Jim Schutta as “Chair” rather than “Member”.

ACTION: Member Bullard made a motion to approve the minutes from the February 2, 2010 minutes as amended. Member Schutta seconded the motion. The motion carried unanimously.

OLD BUSINESS:

- 1) Townhome definition

Terry Randolph addressed the Board.

- His issue is that it is impossible to get financing on a two-unit condo.
- Mr. Randolph has worked since November 2008 to get financing as it was declined as the property is deeded as a condo.
- Insurance has limit of 30% ownership for purposes of financing.
- Having the unit classified as “single family attached” will be the best classification as the dirt under the foundation will be separately deeded and the remainder of the lot will be

classified as common lot. With this, it eliminates all friction in getting the home financed.

- Mr. Calder, Mr. Randolph's attorney, forwarded a proposed ordinance amendment to BI Batson for his review.
- The problem originates with how the land under the structure is deeded.
- He also stated that the firewall was an issue with these structures as well.
- Attorney Moore indicated that Mr. Randolph's proposal did not have anything in it that would seem to be incorrect.
- Mr. Randolph indicated that BI Batson has received several calls on this same issue over the past few months. BI Batson confirmed this.
- It is something that, unless there is a cash buyer, will continue to be an issue.
- Member Bullard questioned what must the Town need to do from the financing agency's standpoint.
- Attorney Calder stated that instead of showing as a condo where you own the airspace, the definition is a box in a box: The first box is the property and the second box is located inside and represents the two individual homes. This would pertain to side by side homes rather than up and down.
- NC Statute 47(c) has a section that pertains to dissolving a condominium and then new covenants and a plat would need to be approved and recorded.
- Member Votta questioned the definition of (2)(a) from the handout. Attorney Calder indicated that he gleaned this from the Carolina Beach Code of Ordinances.
- To capture the minimum would be to utilize up to three unit properties. Mathematically that is where the problem exists. Attorney Calder also stated that section (8) and the reference to Ordinance No. 04-558 should be stricken as that is also from the Carolina Beach Code.

Member Galbraith asked what the best way to do this. Attorney Moore stated that that is an issue that should come from the attorney for the property owner or potential property owner. Attorney Moore stated that then the Town could review it. BI Batson felt there does not need to be a protocol for the Town to have regarding this issue. When plat is brought to BI Batson to sign, that is when he would do his review of it. Attorney Moore stated that there could be something in general regarding a conversion consistent with the General Statutes. Member Votta stated there could be an application and review fee for conversion.

Attorney Moore stated that with this new definition it would also mean that a person would own the outside of the building now and then there is a question of liability. Chair Galbraith stated in a conversion, there might be much different HOA covenants. Attorney Moore stated, as an example, if there is a mold problem have to determine when it happened, what the property was deeded as and as to who takes responsibility. Attorney Calder stated that, in his memory, it is a decision made by the homeowners as to what the HOA will have control over.

Attorney Calder stated that there should be a requirement that the condo be duly dissolved prior to the conversion to a single family attached. An affidavit could be required stating that when the conversion is recorded that the condo was dissolved. Chair Galbraith asked about the ramifications for tax assessments. Mr. Randolph stated that currently the only value is the

property the building sits on and not with the condo. At present, the condo has no value as they cannot be sold as financing is impossible to get. The covenants will need to be done at the same time as the deeding of the property.

Chair Galbraith does not have a problem with creating an ordinance for this. Member Votta stated that he has an issue because there are several up and down properties that cannot be deeded as townhome. Member Schutta suggested that the up and down properties be considered duplex and to define "single family attached". This is a deed/ownership issue not a verbiage issue. Attorney Calder stated there is a new development in downtown where they have done a division of airspace. He is willing to investigate this further to report to the Board. Mr. Randolph stated that with up and down units, they have parking on the bottom floor, divided by hallway or wall or something else, and that that area can be deeded to each property. That would resolve the issue with up and down properties.

Member Votta questioned a letter received many months ago from Mr. Yoder that addressed issues of insurance. It is typical to have three insurance policies on these buildings. One for each home and one for common areas. That is advisable yet not required. With a condo, it is required to have 3 policies, one for contents on each building on one for the grounds.

Chair Galbraith suggested that a member of the board research this issue and return to the Board with their findings. Mr. Randolph suggested that he and Mr. Calder do the legwork for the committee and present the same at the next meeting for review. It was the consensus of the Board that that would be fine. The Board will need to determine where in the ordinance it would need to go, costs of process, procedure to follow, etc.

Mr. Calder and Mr. Randolph will appear at the April hearing and will have all documents submitted to the Secretary by March 30th.

2) Discussion of grants available to the Town for purposes of burying power lines.

- At the Town Council meeting, Mayor Lambeth indicated the he did not want to go through Marlow and Company for help on this issue.
- Member Galbraith stated that P&Z needed to determine what area they need to propose be handled first.
- Member Schutta stated that it should be K Avenue south and north one block from the Pier to 421.
- Chair Galbraith suggested that Member Schutta research that and return with a proposal next month.
- Member Votta mentioned the prior talks regarding Mainstreet USA and where the town sits with that.
- Chair Galbraith has a student who is working as an intern with the Town and future interns can be charged with looking into the issue of grants.
- Chair Galbraith stated that for the next meeting the Commission will determine an area to be considered, Chair Galbraith will have an update on research for grants that his student is working on and will also find out who was initially researching the Mainstreet USA initiative.

3) Amendment to the sign ordinance

- Chair Galbraith stated he is willing to start addressing size issues and to revisit some of the previous recommendations and work on phase 2.
- He suggested coming in with a proposal for the next meeting.
- BI Batson had taken pictures of some of the signs and also handed out a memo regarding the Business Signage in the B-1.
- Members will look at the changeable copy signs.
- Commissioner Nelder stated that real estate agents are putting on a form based seminar as an introduction to form based zoning.
- Commissioner Nelder will forward the information to the committee if they would like to attend.

4) Zoning Overlay District

Chair Galbraith recommended that this issue be tabled until some of the other issues are resolved.

ACTION: Member Bullard made a motion to table this issue to the April meeting. Member Schutta seconded the motion. The motion carried unanimously.

5) Impervious Surfaces

This item was on the agenda for informational purposes only.

6) Commission Vacancy

- Town Council is scheduled to interview applicants for the various committee vacancies tomorrow.
- Member Schutta suggested that we put together a generic list of qualifications for the applicants.
- It was suggested that the following be minimum qualifications:
 - Knowledge of planning and/or background of planning.
 - Familiarity of issues with Kure Beach and controlled growth and how they feel about it.
 - Understanding of how our planning ties in with economic development

Chair Galbraith will prepare a document and email the same to the Town Council.

7) Appointment of Vice Chair

ACTION: Member Schutta made a motion that member Votta be appointed as Vice Chair. Chair Galbraith seconded the motion. The motion carried unanimously.

8) Economic Development Committee studies

- Member Votta attended the February 10th meeting.
- He expressed Jim's concern about if council does not recommit to the issues in B-1 that we are all wasting our time. That was the consensus of all there.
- Councilman Fuller was there for the meeting and is aware of the concerns.
- When it comes to economic development, it really encompasses three issues: 1) burying the power lines, 2) sign ordinance and 3) zoning overlay.
- However, there must be a vision about what economic development means first and foremost.
- P&Z really needs direction from Council and what they want done.
- While there is an economic development committee, it has really been disbanded pending the outcome of what the other committees feel.
- Committees are coming back to Council in March with their recommendations.
- Member Votta suggested asking for the Town Council's vision at the March meeting.
- Once they receive the vision P&Z can move forward with prioritization.

Chair Galbraith will attend the meeting tomorrow and ask for council's vision for the town. Nothing can be implemented until there is a sense of what the vision of our town is going to be.

NEW BUSINESS

None

MEMBER ITEMS

Chair Galbraith has a meeting with the lead planner from Raleigh who indicated they are revising their ordinances. He also referenced Senate Bill 44. It was passed last year and was implemented as of January 1st regarding Quasi-Judicial Decisions. It is more than simply ethics. It also defines the process of appeal, etc. He strongly recommends that the Board review it and familiarize themselves with it.

As to sign ordinances, he read in newspaper in LA they have problem with digital signs and they passed new laws there but in Hollywood, they have these megasigns that drape down over buildings. Someone did it, was arrested for it and was charged one million dollars bail for violation of the sign ordinance.

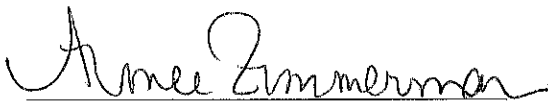
ADJOURNMENT:

ACTION: Member Bullard made a motion to adjourn the meeting. Member Schutta seconded the motion. The motion carried unanimously.

Meeting was adjourned at 8:35 p.m.



Craig Galbraith, Chairman



Aimee Zimmerman, Secretary