

CAROLINA BEACH

Planning and Zoning Minutes
Thursday, May 10, 2018 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

The Town of Carolina Beach Planning and Zoning was held on Thursday, May 10, 2018 at 6:30 PM at Council Chambers.

PRESENT: Keith Bloemendaal, Deb LeCompte, Mike Hoffer, Wayne Rouse, and Commissioner Nan Toppin

ABSENT: Commissioner Mary Grady

ALSO PRESENT: Director of Planning & Development Jeremy Hardison

. CALL TO ORDER

Meeting was called to order at 6:30p.m. by Chairman Bloemendaal.

. APPROVAL OF MINUTES

a. Planning and Zoning - April 12, 2018 Meeting Minutes

Chairman Bloemendaal made a motion to approve the minutes.
Commissioner Rouse seconded, all were in favor (5-0).

. STAFF REPORT ON RECENT COUNCIL MEETINGS

Mr. Hardison reported on the most recent Town Council Meeting from May 8, 2018.

Town Council recommended to approved the CUP for Body Piercing. The Amendment for Chapter 40 Article XVIII, Sec 40-547, the applicant had pulled before it went to Town Council. This proposed amendment was to change the building height. This Commission recommended to deny it and the applicant didn't feel that there was support from Town Council and decided to pull it from the agenda. The other item of note was the Commercial Pedal Pub which was denied, they felt some of the impacts were unknown at this point.

Chairman Bloemendaal asked why the Pedal Pub didn't come thru the P&Z Commission.

Mr. Hardison explained it is a Town Council item just as Taxi Cabs and Rickshaws are and not zoning related.

. STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported on the recent development in the Planning and Development Department.

Commercial permits, Special Events for this summer which means there will be a lot going on between now and the next P&Z meeting.

PUBLIC DISCUSSION

Chairman Bloemendaal stated no one signed up for public discussion.

- a. Conditional Use Permit: For Latella Gelato to be classified as a bar to serve alcohol located at 11 Boardwalk unit 110 in the Central Business District (CBD) District. Applicant: Latella Gelato Inc, Jeanie Shaffer

Mr. Murphy reported on the Conditional Use Permit for the Latella Gelato Inc. The existing use for Litella Gelato is a gelatos facility which is located in the CBD. He reported on the fact that there are 7 specific standards the applicant must take provisions for. The Technical Review Committee (TRC) approved the CUP with the only recommendations being the adherence to all local, state, and federal regulations. The action to approve or deny would be based on the following 4 standards which he outlined.

Chairman Bloemendaal made a motion to open the public hearing.
Commissioner Rouse seconded, all were in favor (6-0).

Ned Barnes resides at 814 Carolina Beach Ave North. He will speak on behave of the applicant Ms. Schaeffer of Latella Gelato. She has been in business for a little over a year and is requesting the approval to serve alcohol specifically wine by the glass and also the infusion of wine into the gelato with shaved ice. Stated the actions for this approval have all been met.

Chairman Bloemendaal asked Ms. Shaffer if the customers will be exiting the building with the gelato. Mr. Hardison stated that consuming of alcohol out side of the facility is against the law.

Ms. Shaffer explained that the plans state that the customers would have to stay on the premises which will be added to the menu.

Commissioner Kennedy asked will the alcohol that she will be serving in the gelato fall under the standards with the ABC and what is the percentage of alcohol in the gelatos.

Ms. Shaffer stated that yes, it does fall under the ABC standards and the percentage would vary with recipes but it would be between 8 and 15 percent but there is no data to identify individual consumption.

Commissioner LeCompte asked will there be any out side seating.

Ms. Shaffer no, not at this time.

Commissioner Kennedy will there be ID carding for these items. Also will there be Non-Alcohol Gelatos offered.

Ms. Shaffer answered yes, they will be carding for the items as well as any samples and yes they will have Non-Alcoholic gelatos served.

Chairman Bloemendaal made a motion to close the public hearing
Commissioner Rouse seconded, all were in favor (6-0).

Chairmen Bloemendaal asked in the future if this facility is sold can it be turned into a bar.

Mr. Hardison replied yes, it could with an approval.

Commissioner Kennedy asked is this our regulations that she has to apply for the CUP or is it the ABC law.

Mr. Hardison stated that our ordinance reflects the ABC regulations and if it isn't categorized as a restaurant then our regulations state that it would be considered a bar because they are serving alcohol on premise.

Commissioner Toppin wants to clarify what Chairman Bloemendaal stated - the CUP is tied to this facility and if Ms. Shaffer wants to turn this establishment into a bar she can do so without any additional requirement from the town and if she no longer wants to lease the property the CUP is still tied to that facility - it Runs with the land.

Mr. Hardison stated that if the business is closed for a certain period of time and is non-conforming and if there is any specific conditions they would have to meet those of the CUP.

Commissioner Toppin asked what if a church wanted to lease the facility.

Mr. Hardison stated there are distance requirements for bars and churches. If there is an existing church then there would be a requirement but there is not a distance requirement from a church being located next to a bar or which ever business came first. As far as our approval this business would be classified as a bar.

Commissioner Kennedy asked could there be special conditions if she sells her business and that person wants to change it into a bar.

Mr. Hardison commented that it could not be specific to an applicant it would have to be associated with the impact on the land.

Commissioners agree that this meets all 7 specific standards.

Commissioner Kennedy wants clarification on the word "alcohol" - does that mean any form of alcohol not just what she is requesting - this is correct, she can serve any alcohol.

ACTION: Commissioner Rouse made a motion to approve the Latella Gelato to be classified as a bar to serve alcohol located at 11 Boardwalk Unit 110 in the Central Business District (CBD) the applicant being Latella Gelato. The use meets all required conditions and specifications, the location and character of the use if developed according to the plan is submitted and approved will be in harmony with the area which is to be located and in general conformity with the town land use plan and policies.

Commissioner LeCompte seconded , all were in favor (6-0).

- b. To amend the Flood Damage Prevention Ordinance to incorporate updated Flood Insurance Rate Map data and ordinance requirements to comply with minimum National Flood Insurance Program (NFIP) regulations

Mr. Hardison reported on the fact that we are mandated by the federal government to adopt flood ordinance and flood maps. The reason for this is Congress decided to take over the Flood Insurance Program because companies were not offering flood insurance any longer because of the risk and exposure associated with that. In order to provide flood insurance they created the National Flood Insurance Program (NFIP) and they identified the risk by creating a flood map. Also they want us to be sure we are building safe homes so they created an ordinance which tells how to construct these homes that are located in the flood zone.

The first flood study in Carolina Beach was in 1972 and the first flood map was created in 1975. Our current map was adopted in 2006. The Community Rating System (CRS) is a voluntary program and is an incentive to keep flood insurance rates down and also for the National Flood Insurance Program (NFIP) participating communities. The only way to get flood insurance is to join the NFIP and if there is a disaster this is the only way to get federal assistance.

Our first notification for this flood maps was in 2014 and thru FEMA's process and appeal period we are now at the adoption process and we have to adopt these maps by August 28th. The insurance could be affected by that date and from a permitting standpoint as soon as council adopts the flood maps, if you are no longer in a flood zone there wouldn't be any elevation requirements. To review the preliminary flood map this can be done through our website. There are numbers associated with each flood zone which is our base flood elevation and that is decreasing. For example AE10 you would have to build up 10' and if your lot is 5' elevation you would have to make up the difference which you would have to build up 5' off the ground. There is VE - High Velocity which could be up to a 3' wave action which would be the most expensive flood insurance, then there is AE - this is a 1% chance of flooding commonly referred to as 100-year floodplain, then there is the XO - this is .2% of flooding which is the 500-year floodplain there is no requirements to have flood insurance in this area but still there is a risk, and then there is X - there is no floodplain in this area. There is a significant change coming out of the V-Zone (VE) which will lower the parcels in that area but increasing those in the A-Zone (AE). 613 Parcels will no longer require flood insurance. If you choose to build 1-3' higher then the minimum requirement your flood insurance will decrease drastically. Our dunes benefit from the beach re-nourishment. VE Zone may have a wave height of more then 3'. FEMA has a new classification, overlay option which the wave won't die down but

there is a transition area where the wave will go from 3' to 1.5' and that is called a Coastal A-Zone, then there is AE Zone and X which is not in a floodplain. The Coastal A-Zone is currently in a VE Zone and going into a Coastal A-Zone and the insurance benefit is it still has the A-Zone rates. This area is most vulnerable because the rocks are not as high as the dunes and this is the area we see our first over wash when we have storm surge.

Options with higher standards to consider -

Freeboard: Staff is recommending a 2' Freeboard as well as the builders are supportive of bringing this back. We did have this in place in 2006 because base flood elevations were increasing but we took it out so all would be building at the same height. The benefit with the 2' Freeboard is flood insurance decreases and keeps the structure out of harms way.

Elevation Certificates: Required for flood zone areas only. At the end of construction we require a final Elevation Certificate which is also used for insurance purposes. The option is you can have an elevation certificate prior to construction which will tell the proposed design elevation of the structure. There would be a cost which takes a survey. Once under construction and the lowest floor is established then you can opt to have the surveyor back to mark the first floor this will determine that this is exactly where it was going to be proposed and meets flood, then continue to build. Currently we require a Final Finished Construction Elevation as well as when the pilings are set that there be a bench mark showing the base flood elevation.

Non Conversion Agreement: This is for a garage, storage or entryway. If you agree to a Non Conversion Agreement, the lowest level should not be improved, finished or otherwise converted into habitable space. This would be used for uninhabitable areas and required for new construction. This does carry 30 CRS points and you can receive 30 more points if you agree to have the Town of Carolina Beach inspect that enclosed area and there would be 30 additional points if we conduct it every year.

Prohibit Fill: Maximum 280 points - Staff is not recommending.

Prohibit Enclosures: Pilings only. Maximum 240 points - Staff is not recommending.

Freeboard Requirements: Maximum 500 points - Staff is recommending.

Adopting V-Zone standards for Coastal A-Zone: Maximum 600 points (This area is at the very north end of Carolina Beach).

We are currently raked a class 7 with our CRS Points which is saving the policyholders \$522,914.00 which is staying right here in Carolina Beach. We receive points for public information, for our website regarding flooding and flood prevention and emergency management, for our maps and regulations available to the public, do we promote flood reduction and flood preparedness, stormwater programs, and maintenance programs in place. We did get audited and our goal is to increase our points which we did and we have moved up to a class 6 that will come into effect in October which brings our total savings to \$703,604.00. All of this reflects back to the policyholder from 15% to a 20% premium reduction. We could qualify for a class 5 if we adopted the higher standards that were outlined. We are confident that we could achieve a class 5 with adopting the V-Zone standards for Coastal A-Zone and the Freeboard Requirements with just those two.

Commissioner Toppin asked why did we stop requiring the 2' Freeboard.

Mr. Hardison responded the Base Flood Elevation was at 12' then in 2006's Flood Map changed to 14'. So we felt it best to keep the level the same for all building heights.

To conclude -

Adopt the flood map and the FDPO

- Prohibit Fill
- Prohibit enclosures
- Freeboard Requirements (recommending - 2')
- Adopting V-zone Standards for Coastal A-zone (recommending)
- Elevation Certificates - beginning, middle and/or end
- Non conversion agreement

Commissioner Toppin regarding the Elevation Certificate, the negative to this would be having that surveyor come out 3 times instead of once. What is the average cost of that and can you contract that out to do it all which may be cheaper. Plus it could delay the schedule. The benefit is risk mitigation, you know everything throughout the process. Feels it's not a burden on the homeowner if it's just a one time thing.

Mr. Hardison responded that they do have bulk packages. Yes to have them come out multiple times could delay because they can't move forward until we get the elevation certificate. He pointed out that from a mapping standpoint, all base flood elevations will be dropping 1-2-3 foot depending on where you are located and there is an area on Carolina Beach Ave South which is ocean front and the base flood elevation will be increasing from 14' to 15'.

Chairman Bloemendaal regarding the elevation certificate he feels that adding things costs more money but this is a good move to add especially when you're building in a flood zone so that everything is checked. Also feels the freeboard is a positive and doesn't have a problem with the V-Zone. Is all for all 3 of these options and he is happy that we are leading the way and that it would be an accomplishment for our community that we can be proud of. They all agree that this would be good for our community.

ACTION: Chairman Bloemendaal made a motion that we adopt the new flood map and flood damage prevention ordinance whereas in accordance with the provisions of the NCGS 160A-383, the Commission does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans and to add the options of the 2' freeboard, the V-zone standards for Coastal A-zone and the beginning and middle elevation certificates.

Commissioner Kennedy seconded, all were in favor (6-0).

Vote: UNANIMOUS

DISCUSSION ITEMS

Committee Members discussed the following -

Chairman Bloemendaal has had a discussion with a few of the council members regarding the fact that most of the committees have a liaison from council but P&Z does not, he said that the Mayor was going to look into that. Asked if Jeremy knew why we don't have one and he replied the evidence should be presented at the quasi-judicial hearings for them to consider and they are not to watch or read any of the minutes. Part of their packets show them the recommendation from P&Z and all they know is whether the vote was yes or no. Committee members discussed a particular council meeting at which there wasn't a member present from such committee and they were looking for clarification on an issue. They discussed the fact of what the committees purpose is which is to serve the safety of this community. We are not here to say how business should or should not operate but we are here to point out those safety issues. Commissioner Kennedy feels that the committee should be there if there is an issue and showing up for the proper intent and not be misconstrued. There is nothing that says they can't show up and to possibly set a schedule and whoever is here is representing the Planning and Zoning Commission. If asked that that person would be a spokesperson for such committee and the spokesperson be either a chair or vice chair to volunteer if possible and also it should be on a case-by-case basis.

Chairman Bloemendaal asked Mr. Hardison if there is anything that they need to do as far as a board, for one of the members to be a liaison for P&Z to attend council meetings. If we are not going to get a representative from a council member here because of quasi-judicial reasons can they just attend as a spokesperson. Mr. Hardison replied there are operation procedures but not sure if you formally need to but if you do you are binding yourself to do that or you can schedule that among yourselves. They agreed that it be on a non-agenda item and if there would be a strenuous CUP that there would be a spokesperson that would attend the meeting. Also discussed the election coming up with a new committee member to be appointed at the June Council meeting to service in July and in July would have elections.

Commissioner Kennedy has a concern with our Building Permit process. Feels that there is a negative attitude with builders, homeowners and inspectors and feels very strongly that it can be turned into a positive situation. She is aware of the number of regulations with either state, county or even our own here in Carolina Beach. Through social media there were two permits with the same fees but were two different permits which raised a lot of confusion. She feels that the homeowner is not getting the service for protection that they should while they are building or renovating. It's time to step up and be educated on the process over a period of time and turn this into something positive. Mentions something regarding a mobile building permits given on the spot. She would like for this committee to support for increased communication and a more positive interaction in the building permitting process and to make the process more efficient.

Commissioner Toppin is not opposed to being better educated on the process and to clarify what Commissioner Kennedy was saying to have a better understanding of the process.

Chairman Bloemendaal stated that as a contractor he understands there has to be rules and regulations and codes and they need to be followed and be enforced and also to have a relationship with our inspector. He agrees that we need better understanding of what is required for certain permits which are not clear and to clarify what is structural with some examples.

Mr. Hardison responded that yes we can definitely address and go over the building process. We can outline what needs a permit, what the process is, and what is required. Our new permitting system

which is through City Works tells us what departments need to be involved and also gives us a time frame on how long the process should take with each permit.

- **NON-AGENDA ITEMS**

- **ADJOURNMENT**

Chairman Bloemendaal made a motion to adjourn.

Commissioner Rouse seconded, all were in favor (6-0).