

CAROLINA BEACH

Planning and Zoning Minutes
Thursday, April 12, 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, April 12, 2018 at 6:30 PM at Council Chambers.

PRESENT: Keith Bloemendaal, Deb LeCompte, Wayne Rouse, Commissioner Mary Grady, and Commissioner Nan Toppin

ABSENT: Mike Hoffer

ALSO PRESENT: Director of Planning & Development Jeremy Hardison and Interim Town Manager Ed Parvin

. CALL TO ORDER

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

. APPROVAL OF MINUTES

- a. Planning and Zoning - March 8, 2018 Meeting Minutes
Commissioner Kennedy made a motion to approve the minutes. Commissioner Grady second, all in favor (6-0).

. STAFF REPORT ON RECENT COUNCIL MEETINGS

Mr. Parvin reported on the most recent Town Council Meeting from April 10, 2018.

Several amendments for consideration:

- 1 - Food Trucks - they wanted to allow operation at anytime. Mr. Parvin concerned but a stipulation was added, as approved by the Health Department all others were approved as recommended by this council.
- 2 - High Grass - Presented by Mr. Murphy and was also approved.
- 3 - Obstructions - Oceanfront sidewalk cafes on the Boardwalk. This was talked about at the March meeting for the Non-Agenda items. The present allowance from the building is 4.5', they want to allow for more room on the oceanfront sides of the buildings. We were having issues with reeling in the patrons so we're hoping this will help the cafes to stay in compliance.
- 4 - Beaches & Water Front Ordinance - which clarifies what is a public beach, obstructions that aren't allowed on the beach and to clean up the language which our council had asked.
- 5 - Commercial Pedal Vehicle - Staff and council had issues with the application. Council asked to table the item until all is clarified. P&Z to meet with the applicant to resolve their issues.

Commissioner Grady asked about the issues we are having with viewing the meetings on our website.

Also asked has the town made any decisions on the short term rentals in the R3 & R2 areas.

Mr. Parvin responded to the viewing issue and answered yes we have had trouble since we switched services and it has been looked into and we are hopeful it has been resolved. As for the short term rentals question he responded there has been no additional discussions but will probably be coming up in future meeting and or workshops.

Chairman Bloemendaal added at the Town Council mtg regarding the Accessory Structures. Wants to clarify for his own integrity that as a builder and a board member he did not have anything to gain from the change of the Accessory Structures.

STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported on recent development in the Planning and Development Department. Commercial activity regarding the Putt-Putt property has been demoed and graded the lot nothing has been discussed as of what will be happening with that site. New on N. Lake Park Blvd is Pawsitivly Purrfect Pet store and on the boardwalks is Doh-To-Go. Coming next month will be CUP Gelato on the boardwalk, CUP modification Harbor View, Bulkhead Ordinance, Minimum standards for Commercial Buildings which was council directed, updating a new Flood Ordinance.

Commissioner Rouse asked Mr. Hardison to expand on the Flood Ordinance

Mr. Hardison replied that FEMA has given us a date that the Flood Map are to be adopted which is August 28th. The process is they give a flood model which there is some flexibility but that must be adopted with the new flood map. With possible higher standards, if that is what the town is looking for.

Chairman Bloemendaal stated no one signed up for public discussion.

PUBLIC DISCUSSION

- a. Conditional Use Permit: For a Body Piercing establishment to be located at 1009 N. Lake Park Blvd unit B2 in the Highway Business (HB) District Applicant Jesses Gurganus

Mr. Hardison reported this committee amended the ordinance to allow for the use with specific standards such as 200' from any resident, church, school, playground, library or parks and also 400' from any other body piercing studio which there isn't any this would be the first one. This is going into an existing unit which is a Tattoo Studio they are not expanding the unit or the footprint of the structure.

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

No one signed up to speak
Chairman Bloemendaal made a motion to close the public hearing
Commissioner Grady second, all in favor (6-0).

Commissioner Rouse asked is staff recommending the approval of this CUP

Mr. Hardison, that is correct it is consistent with the LUP and the policies and they have met all specifics in the general standards.

ACTION: Commissioner Kennedy made a motion that the Conditional Use Permit for a body piercing establishment to be located at 1009 N. Lake Park Blvd Unit B2 in the highway business district be approved which meets the seven specific standards and four general conditions and is in general conformity with the land use plan. Commissioner LeCompte second, all in favor (6-0).

Vote: UNANIMOUS

- b. Amend Chapter 40 Article XVIII, Sec 40-547 to exempt appurtenances of 10 feet or less from the building height limit. Applicant: Pellican Point CB, LLC

Mr. Parvin stated that this is a text amendment and there is a pending Conditional Use Permit which will be quasi-judicial and the applicant will be able to take advantage of this potential allowance and that item can not be discussed tonight because it is part of the quasi-judicial hearing. This will be discussed as a town and not this specific project.

Mr. Hardison reported this is a town-wide ordinance change to exempt how a building height is measured, current regulations and the definition of a building height. It is the distance measure from the highest appurtenance on a structure.

1 - The front street line.

2 - The nearest front street line where there is not an adjacent right-of-way.

3 - An average of each front street line on through lots.

4 - Hotels: Appurtenances ten feet or less in height shall be exempted from the height measurement.

In 2008 this was amended to exempt hotels from ten feet or less such as parapet walls, HVAC's, elevator equipment. The building to be exempt from the total height measurement.

Chairman Bloemendaal asked why was it that only hotels were exempt.

Mr. Hardison stated that at the time there was a hotel that was looking for the exemption and made it a specific use.

Commissioner Kennedy asked why wasn't there an increase in the height limit.

Mr. Hardison stated the height is measured to the roof and wouldn't give any additional heated space to allow for things which the building needs to function for the elements to be located on the roof top. The proposed regulation for any appurtenance structure could take advantage of the allowance. At present the lowest height is 40' in the R3 area, then 45' in the R2 area, all others are 50'. In the highway business area T1 and Marina and the CBD can go over 50' with a CUP. With the exception of the CBD they are all capped out at 60' but if over 50' it's a one-for-one and so every

foot on all sides over 50' you have to give up a foot of additional setbacks from the requirement. CBD non residential is 115' in the land use plan, residential is 50' and capped out at 60'. The hotels will be the ones that will exceed the 60'. We have a few hotels and multifamily buildings that have towers at the top for equipment or stairways. At present the multifamily buildings could not be built to that same height today.

Chairman Bloemendaal asked would an equipment room be considered an appurtenance.

Mr. Hardison added, yes if it is holding equipment for the building to function.

The policy changes will accomplish:

- 1 - Maintain heated space or occupancy area to a maximum of the building height.
- 2 - Flexibility in design such as skylights, solar panels, ventilation equipment, lighting rods, housing for elevator equipment, air conditioning, heating equipment, chimney
- 3 - Restrict the height of appurtenances to a maximum of only 10 feet above the permitted maximum building height

Land Use Plan Policy:

The proposed amendment is inconsistent with the 2007 LUP and will need to be changed.

Policy #30: Building height shall be defined as that distance measured from the highest appurtenance on the structure to:

- 1 - The front street line
- 2 - The nearest front street line where there is not an adjacent right-of-way
- 3 - An average of each front street line on through lots
- 4 - Hotels - appurtenances 10' or less in height shall be exempt from the height measurement

The Land Use Plan is very specific and it coordinates with the ordinance which were both changed in 2008 so it would need to be changed as well. The general assembly adopted the language that if it was inconsistent with the LUP then would automatically approve or amend the LUP we would have to have a hearing to make changes and open it up for the public.

Chairman Bloemendaal asked how do we change the ordinance without changing the LUP first

Mr. Hardison stated because we are governed by the CAMA LUP if the ordinance is changed then the LUP would simultaneously also be approved and they are wanting to open it up for a public hearing. Or it can be denied based off being inconsistent with the the existing LUP policies.

Chairman Bloemendaal commented North Carolina Building Code doesn't count appurtenances as building height so why does Carolina Beach. Also making adjustments to the LUP shouldn't be thought of softly. Regarding the definition of the state building code, why do we address our building code ordinances differently verses North Carolina's - why do we do that but just making a statement.

Mr. Parvin responded that The Code Council adopts a model zoning ordinance and we have purchased the books which we try to mimic those to be as close as possible to what the state is trying to do with the building code. Zoning is and can be what the community wants it to be and

will make it as close as possible.

Chairman Bloemendaal understands that P&Z is not making a recommendation and that is putting the burden on the committee.

Mr. Parvin responded as far as this application increasing the appurtenances, is staff would recommend an approval of this. He doesn't think the ordinance should be specified for one land use it should treat all of them equally. Based on that we would recommend approval.

Commissioner LeCompte asked if it can be specific to a zoning area like in the CBD area.

Mr. Parvin replied there are heights allowed in specific zoning districts which this one is just making allowances for what is on top of the building which can be made specific for a certain district.

Chairman Bloemendaal asked would that be specific in the Land Use change.

Mr. Parvin replied it would have to be clarified - Land Use could be broad and the zoning could be specific.

Commissioner Toppin mentioned to Mr. Hardison that most of the decisions the committee makes one of the key criteria they look at is is this consistent with the land use plan and at this time it's not. And your suggesting that we could vote in favor of this and then assume the land use plan will get changed. Also to clarify when the previous decision for the hotels were made did it require a change to the LUP and was it done in the same meeting.

Mr. Hardison stated that that would be voted on on the next item in a separate motion. Added that yes it did require a change and there were different requirements to change the LUP which wasn't done automatically with the text amendment. There were several public meetings in order to make the changes.

Mr. Parvin added that there were years of amending our LUP. The process was started in 2003 and then finished 2007.

Commissioner Rouse needs clarification hypothetically voting to approve this then the next step would be another agenda item for the LUP to be amended, can we have the second without notice of a public hearing.

Mr. Hardison stated that we would need to open up that item for a public hearing. We did advertise for the LUP amendment specifically on the purposed changes.

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

Michael White resides at 6 Sandpiper St, Wrightsville Beach, NC He is representing Harborview Development and is working with the group to redesign the project and update the building. Points out there isn't any real specificity in determining building heights here on the island. They are

looking to create more specificity to allow for the changes that have occurred over time.

Mary Weber resides at 500 Saint Joseph St, Carolina Beach, NC. She has a few issues and understands how important Land Use Plans are to the town and is also concern how easily it can be changed. Agrees with Mr. White about how things change and feels that the regulations or ordinances should also change. What she heard from him was geared for the building and business aspect. She feels the people here care about a lot of things and economics and business are apart of that. She's concerned on how the changes are made and feels there maybe consequences if it's handled as an administrative decision.

Chairman Bloemendaal added that the committee appreciates her input and assured her that things are not taken lightly with their position.

Rocky Ruffin resides at 500 Saint Joseph St, Carolina Beach, NC. He feels parking is an issue for the town and doesn't want it to turn into a Wrightsville Beach where things are so congested. His main concern is making changes to amendments and how they are worded.

Chairman Bloemendaal made a motion to close the public hearing.
Commissioner Grady second, all in favor

Chairman Bloemendaal stated he is not a fan of this but didn't realize the hotels were exempt in 2008. Biggest fear is the change of the LUP but building code states this is how to address building heights. Mr. Parvin clarified that we have the right to make any changes which doesn't have to follow the building code. The only way he would be in favor of this is if it protected the residential areas and they're not allowed to have the same exemptions for appurtenances to escape the 50' or 45' rule on their homes.

Commissioners discussed the fact that there will be a Land Use Plan update that they will need to look at. There will be a lot of options and consideration to be made and would like to have the public involved in the process. They don't want to rush into anything. They also would like the town to make a actual recommendation. They are not in favor and would like to table this at this time.

ACTION: Chairman Bloemendaal made a motion that we do not amend Chapter 40 Article XVIII, Sec 40-547 to exempt appurtenances of 10 feet or less from the building height limit because it is not consistent with the Land Use Plan.
Commissioner Rouse second, all in favor (6-0).

Vote: UNANIMOUS

- c. Adopt a resolution to amend the Land use Plan policy #30 to exempt Appurtenances

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

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

ACTION: Chairman Bloemendaal made a motion that we do not adopt a resolution to amend the Land Use Plan Policy #30 to exempt appurtenances.
Commissioner Rouse second, all in favor (6-0).

Vote: UNANIMOUS

NON-AGENDA ITEMS

Commissioner Kennedy wanted to discuss the last Town Council meeting where they talked about the P&Z's meeting regarding the allowance of Food Truck/Brick and Mortar and why we were supportive of that. She feels it would be beneficial for one of the commissioners to attend the Town Council meeting on a regular basis so that if something would come up that the P&Z Board would be represented.

Commissioners discussed the findings of that meeting regarding the Food Truck and also the Accessory Structure items. Chairman Bloemendaal watched at home and was upset when the Accessory Structure was discussed, he feels that things were misconstrued. Mr. Parvin stated they were concern that there wouldn't be a lot of participation regarding the Food Trucks and wants P&Z to track this for a year and give them an update. They agree that it would be beneficial for a representative be in attendance and possibly set up a schedule to do so. A few of the commissioners would like to suggest to Town Council members to create a policy that suggests the banning of electronic devices during any public meetings. They feel they a a distraction

. **ADJOURNMENT**