



CAROLINA BEACH

PLANNING AND ZONING MEETING

MINUTES • JANUARY 12, 2017

Council Chambers
Regular Meeting
6:30 PM

**1121 N. LAKE PARK BLVD.
CAROLINA BEACH, NC 28428**

1. CALL MEETING TO ORDER

2. APPROVAL OF MINUTES

Commissioner Bloemendaal made a motion to approve the minutes. Seconded by Commissioner Cottrell. All in favor (6-0).

- a. Planning and Zoning - Regular Meeting - Dec 8, 2016 6:30 PM

3. STAFF REPORT ON RECENT COUNCIL MEETING(S)

Mr. Parvin gave an update on the Town Council meeting on Tuesday, 1/10/2017. Town Council adopted both aircraft ordinances as recommended by P&Z as well as the driveway standard ordinance as recommended by the Commission.

Mr. Hardison presented an update on recent permitting and event activities in the Planning Department.

4. PUBLIC DISCUSSION

- a. Clarify code allowances for itinerant merchants

(Requested by Ed Parvin, Planning & Development)

Chairman Reynolds asked if there were limitations on how many permits an itinerant merchant could get. Mr. Parvin answered that Town Council involvement was removed from the requirement and the permit could be granted annually for any number of years. Chairman Reynolds asked if a CAMA permit would be required. Mr. Hardison responded that if there was development within the CAMA AEC, a permit would be required.

Commissioner Bloemendaal asked about the proposed square footage limitations and if in the CBD where there are no lot coverage limits, if the entire lot could in fact be used. Mr. Parvin responded yes.

Chairman Reynolds opened the Public Hearing.

Mark Miller, 702 Seafarer. Feels 500sf is not an adequate amount of space. Feels if it is in a commercial zone that the entire property should be allowed to be used.

Tony Silvagni, 308 S. Lake Park. Owns and operates a surf school business in CB for eight years. Has served thousands of locals and tourists. Has organized many benefit events, many donations have benefited various causes in Carolina Beach. Loves living and working in Carolina Beach. Strives to run a business ethically and responsibly, and wants to follow all guidelines set by the Town.

Steve Coggins, 4419 Market Street. Concerned with intent of wording that disallows business transactions from taking place outside of the primary business. Asked for more clarification with understanding the limitation of 750sf of operations.

Mr. Parvin clarified that an allowable 750sf box around all operations would be considered. Currently just trucks, trailers, and tents are counted. This option would include all area around these items.

Duke Hagestrom, 920 Riptide Lane. In favor of staff's direction in clarifying the ordinance and leveling the playing field. Asked for further clarification on what classifies a primary business location. And how a primary business is defined. Feels primary business should have its own, separately permitted storefront. Feels beach service permits should be required to all business setting up umbrella equipment on the beach as it requires liability insurance.

Mr. Parvin explained primary business as having commercial operations at that location. It can't be primarily storage. Beach service operators are allowed to do more on the beach than just setup. The Town could go the route of making sure all doing services on the beach are insured, although it would be difficult to make sure all were covered.

Chairman Reynolds asked what would happen if an umbrella injured someone placed by a service not insured and the Town is sued, if this is a liability issue. Mr. Parvin responded that the Town could be named in a lawsuit, but if the Town is not issuing a permit they are not requiring liability insurance.

Melanie Boswell, 107 Island Palms. Feels the Tony Silvagni Surf School should stay in Carolina Beach and that he is a positive influence in the community.

Eileen Kapler, 705 Carolina Beach Ave South. The Tony Silvagni Surf School is a great asset. Wishes there were more itinerant merchants like him.

Sean Cooke, 2 North Lake Park Blvd. Encouraged the Commission to fix the ordinance so all businesses are required to play by the same rules.

Wesley Bell, 405 Greenville Ave. Believes the current ordinance is too restrictive. Wants to make things easier to invite more new businesses to Carolina Beach.

The following people spoke on behalf of Tony and expressed their support of his business. They all feel that Tony is a good asset to the community and believe the itinerant merchant code should be fair to all business. They cautioned the board from over regulating businesses.

Gary Toppin, 104 S. 6th Street.
Amy Muxworthy, 714 Cape Fear.
Colby Crombi, 407 Greenville Ave.
Ron Claude, 617 St. Vincent Drive, Wilmington.
Doug Rutlinger, 225 Colquitt Drive, Wilmington.
Mark Miller, 702 Seafarer.
Bonnie Warner, 1308 Canal Dr.
Janet Kevinis, 509 Birmingham Ave.

Jim Kitts, 1009 N Lake Park. Feels a resolution should be found to accommodate all businesses in Carolina Beach.

Leanne Heath, 6611 Dorrington Dr. Pettiness must stop, all businesses should work together.

Kevin Hill, 200 Seawatch way. Believes restricting the ordinance will hurt local businesses.

John Jarvais, 300 Columbia Ave. Cautioned the Board from over regulating business and to be mindful of the future when making code decisions.

Mr. Coggins stated that the second coverage option proposed is most desirable option for the current itinerant merchant.

Chairman Reynolds summarized the three options before the Board and addressed that it was only the intent of the Board to help all local businesses..

Commissioner Bloemendaal stated that it was never the intent when directing staff to review the itinerant merchant code, to put Tony Silvagni out of business. The issue is not Tony. The code has to be looked at for all businesses.

The Commissioners discussed the original intent of the itinerant merchant ordinance had been when written. It was meant as a method to potentially expand existing businesses.

Commissioner Toppin reminded the Board that the incubation language has been proposed to be removed. The Itinerant Merchant Permit is renewed on an annual basis, the property owner could choose to not permit additional years.

Commissioner Toppin requested removing repeating language about business being conducted at an itinerant merchant location be the same as business conducted at the brick and mortar from the proposed code. Also believes enforcement and revocation of a permit for itinerant merchant should be the same as enforcement for beach services. Commissioner Toppin also directed staff to prepare an itinerant merchant permit application prior to Town Council hearing the item in February. Requested statement that no exemption from waste management will be granted should be removed. In favor of Option 2 for lot coverage.

Commissioner Cottrell wants to ensure the original issues are being addressed in the updated code. Also does not understand what the issue is with collecting payment on the beach. Mr. Parvin responded that trying to preserve beauty of beach by not allowing sales on the beach.

The Commissioners discussed the changes they wished to see in the presented code, including the duplication noted by Commissioner Toppin and the violation process matching permits for beach services. The Commissioners were in agreement with allowing for Option 2 of lot coverage.

Commissioner Toppin made a motion to approve the amendment to Chapter 14 Section 14-22 to clarify allowances for Itinerant Merchants with the following changes: under Item B, Administration, require the same enforcement and violation process as beach services; for allowable lot coverage, Option 2 be selected. Seconded by Commissioner Bloemendaal. No discussion, motion passed (6-0).

- b. Consider amending Chapter 40 Sec. 40-72. to allow for Animal Care Facilities In The I-1 and HB zoning district with standards.

(Requested by Jeremy Hardison, Planning and Zoning)

Commissioner Cottrell disclosed that the applicant, if the ordinance is passed, would be possibly renting a unit from him to run her business. The Board saw no reason to ask Commissioner Cottrell to recuse himself from the discussion and vote.

Commissioner Bloemendaal asked what the rationale was behind the 1,500sf or greater requirement for a CUP. Mr. Hardison responded that the only reasoning was that because most units are 1,200 to 1,500 sf in size.

Commissioner Kennedy asked if the Town would regulate the total number of pets boarded at one time. Mr. Hardison responded that the number was regulated by the state.

The Commissioners asked for clarification on the fencing requirements and where it is limited. Mr. Hardison responded within a 30' setback from Lake Park.

Sue Bondy, 109 Maypop Court. Wants to offer luxury boarding where animals are in rooms, not cages. Believes it will fill a void the community has.

Chairman Reynolds asked Ms. Bondy how she will deal with noise and smell. Ms. Bondy responded if dogs bark outside, they will be moved inside. Chairman Reynolds asked if she would offer overnight boarding. Ms. Bondy responded yes, and she would follow the noise ordinance and not allow dogs outside past the restricted hour.

Commissioner Toppin asked about the maximum number of dogs to be boarded. Ms. Bondy responded that the maximum number would be 30, and that it is also regulated by the state.

Commissioner Toppin requested there be a statement within the proposed ordinance addressing daily removal of animal waste. Ms. Bondy responded that state requires it twice daily.

Chairman Reynolds made a motion to open the public hearing. Seconded by Commissioner Bloemendaal.

Jason Wooten, 208 Dow Road. In support of this allowance in Carolina Beach and something that is needed. State guidelines are very rigid and thorough. Asked why the I-1 zoning district was being considered. Does not feel the use belongs there. Also thinks a CUP should be required for all applicants as 1,500sf would allow for a very large boarding facility and boarding facilities can be noisy and have an impact on adjacent properties. Mr. Wooten also suggests increasing the 5' buffer yard to 8' or 10'. Also stated that a 6' fence is not adequate in height. Some dogs can jump a 6' fence. Effective height of 8' to be safe. Mr. Wooten suggested a 6' tall fence and 2' screen above, effectively making the height 8'.

Commissioner Grady asked if 8' fences were allowed on commercial properties. Mr. Hardison responded they can be permitted with a CUP. A higher fence requirement could be written into the proposed amendment.

Commissioner Kennedy asked if digging underneath the fence was a concern. Mr. Wooten responded that it is less of a concern. Inspecting the fence regularly is very important.

Commissioner Bloemendaal made a motion to close the Public Hearing. Seconded by Commissioner Cottrell.

Commissioner Kennedy asked why the I-1 zoning district was considered for this use. Mr. Hardison explained that it came to mind when staff considered other appropriate districts in town.

Commissioner Grady asked for clarification on allowing for an 8' fence.

Commissioner Kennedy to open public motion.

Mr. Wooten suggested leaving the code for a 6' fence with a requirement of an additional 2' of effective material to keep the animals in.

Commissioner Kennedy asked Mr. Wooten for clarification on his request for a CUP requirement. Mr. Wooten suggested the CUP threshold be based on 1,500sf of gross floor area, not boarding area.

Commissioner Kennedy to made a motion to close the Public Hearing, all were in favor.

The Commissioners discussed their feelings on possibly recommending a CUP requirement. Mr. Parvin suggested changing the threshold of 1,500sf of gross boarding area to 1,500sf of gross floor area of business.

Commissioner Toppin asked Mr. Hardison his feelings on the requested changes. Mr. Hardison encouraged the board to consider the applicant's feelings on the proposed changes.

Commissioner Bloemendaal made a motion to open the public hearing and it was seconded by Commissioner Cottrell. Commissioner Bloemendaal asked Ms. Bondy her feelings on the changes to the proposed ordinance by Mr. Wooten. Ms. Bondy is not in favor of having to go through the CUP process. She is in favor of requiring up to an 8' fence.

Mr. Wooten retracted his request for a CUP requirement.

Commissioner Bloemendaal made a motion to close the public hearing and it was seconded by Commissioner Cottrell.

The Commissioners discussed their proposed changes of changing the type of square footage to require a CUP and to allow fencing up to 8' in height.

Commissioner Cottrell made a motion to amend Chapter 40 Section 40-72 Table of Permitted Uses, Section 40-150 Off street parking standards, Section 40-261 Development Standards for Particular Uses, and Section 23.3 Definitions to allow for Animal Care Facilities with the following changes: The requirement of a 6' fence with 80% opacity with an optional additional 2' screen; Amend the threshold for a Conditional Use Permit from 1,500sf of boarding area to 1,500sf of gross square footage. 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. Commissioner Kennedy seconded the motion. There was no discussion. All in favor (6-0).

5. NON-AGENDA ITEMS

Commissioner Toppin raised concerns with a statement in the previous minutes that reads "Mr. Parvin informed the Commission that it is possible requests were made for events through the Manager's Department that planning might not have been informed of." Commissioner Toppin feels there needs to be more communication between the Manager's Office and Planning and that Staff should have researched if there had been requests prior to the meeting. Commissioner Toppin also feels the Commissioners should have been informed that special allowances written within the proposed code were already protected by federal law.

Mr. Parvin responded that there may not be anyone on staff who knows if there were or the number of requests. Staff communicates daily with the Town Manager's staff. Staff was also unaware up until the Town Council Meeting that the special allowances in the proposed amendment were already protected by federal law.

Chairmen Reynolds informed the Commissioners that there would be another training session for the Board coming up.

Commissioner Kennedy clarified for the record that Planning and Zoning did not recommend allowing special event permits for helicopters.

6. ADJOURNMENT

Commissioner Cottrell made a motion to adjourn. The motion was seconded by Commissioner Kennedy. All in favor (6-0).

Kimberlee Ward, Town Clerk

Date Approved