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Zoning Administrator
DONNA ELLIOTT

August 10, 2020

Memorandum

To: Debbie Diaz, Town Manager

From: Meredith Guns, Planning Director MBG

Subject: Proposed Zoning Amendment- 153.077 Signs - Modifications to allow ***LED String Accent Lights*** in the Commercial Zone

As you recall, on May 27, 2020 the Board of Commissioners directed staff to look at alternatives that would allow some LED accent lighting on commercial structures. The guidance from the Board included limiting the height of accent lighting on structures, small scale accent lighting, minimize light pollution and protect wildlife in oceanfront area and limit proliferation of lighting on a structure.

At the conclusion of the discussion the Board of Commissioners directed staff to develop a Zoning Amendment to Chapter 153.077 Signs to be presented to the Planning Board for a formal recommendation.

On July 21, 2020, the Planning Board recommended approval of the attached amendment to Chapter 153.077 Signs to allow *LED String Accent Lights* in the Commercial Zone as outlined by the Board of Commissioners. Staff recommends setting the required public hearing for September 14, 2020.

ATTACHMENT CA-4A

§ 153.077 SIGNS.

In an effort to ensure public health and welfare and a pleasing aesthetic environment and to promote traffic safety, the town has adopted the regulations and standards contained in this section.

(A) *Permit required.*

(1) No sign shall be erected, constructed, altered or maintained, except as provided in this section, until a permit for the same has been issued by the Zoning Administrator and the fee paid. A minimum fee for any sign permit shall be determined from time to time by the Board.

(2) Any freestanding or wall sign which will require a permit will also require inspection by the Building Inspector.

(B) *Exempt signs.* The following signs shall be exempt:

(1) Signs bearing only property numbers, names of occupants or premises or other identification of premises not having commercial connotations;

(2) Flags.

(a) Legal governmental flags displayed in a manner compliant with all laws.

(b) Decorative flags no more than 24 square feet located within the property lines and in no case shall any part of the flag be closer than ten feet from the edge of pavement within any right-of-way.

(c) Two decorative flags per single business site or one flag per business if located within a shopping center or office complex with multiple businesses per site (to be effective as of January 1, 2015).

(3) Legal notices or identifications, information or directional signs erected or required by governmental bodies or public utilities;

(4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;

(5) Electronic message boards displaying time, temperature and wind direction and velocity signs;

(6) "For Sale" or "For Rent" signs that meet the limitations on square footage as defined in subsection (C)(1)(b) of this section shall be exempt from the permit requirements of division (A) of this section;

(7) During the construction, repair or alteration of a structure, a temporary construction sign which denotes the architect, engineer, contractor or builder or which denotes the name of the structure and its use or occupants-to-be may be placed on the site as a ground or wall sign. Such sign shall not exceed 64 square feet and shall not exceed 20 feet in height above street grade. All construction site signs shall be removed when the building has been approved for occupancy by the Building Inspector or within 60 days of termination of work on the site, whichever shall occur first;

(8) Signs on county, municipal or school ballfield fences, provided the signs do not exceed 24 square feet in area, have been given prior approval by the Board of Commissioners, and are valid for a period of four consecutive months;

(9) Advertising messages or symbols painted or constructed on a business vehicle that is used in day-to-day business operations with valid registration, license and inspection. These shall be reviewed by the Zoning Administrator;

(10) Neon signs *or LED*, provided they are no larger than two square feet and indicate "Open," "Closed" or "No Vacancy." These signs may not suggest movement, be animated in any way or blink on and off.

(11) Strings of electric light bulbs on commercial sites that are not flashing or intermittently illuminated or appear to be flashing or glittering or moving shall be permitted on the following dates and at no other time:

(a) November 22 through January 7; and

(b) July 2 through July 6.

(12) One "Open House" sign that does not exceed 36 square feet and is set back a minimum of seven feet from any property line or one "Open House" banner attached to the primary structure that does not exceed 75 square feet shall be exempt from the permit requirements of division (A) of this section. At no time shall the sign be illuminated.

(13) Signage and/or electronic screens not exceeding 2 square feet on order pedestals at food service establishments.

(C) *Generally allowed.*

(1) The following signs shall be allowed in all zones:

(a) Directional and informational signs may be erected and maintained by public agencies and governmental bodies;

(b) One lease or rent sign and one for sale sign may be used per lot, each of which shall not exceed 6 square feet plus frame. These signs shall be located at least seven feet from the street line and side property lines and shall be removed 14 days after the property has been sold, rented or leased. Sale or lease signs for commercial property shall be limited to 36 square feet and shall be removed 14 days after the property has been sold, rented or leased.

(c) Places of worship, schools, community centers and other public and institutional uses may erect one sign or bulletin board not exceeding 12 square feet in area for the purpose of displaying the name of the institution and related information. The signs shall be used as wall signs or shall be located at least 7½ feet from property lines. Any sign over 12 square feet will require a permit.

(d) Subdivision signs advertising the sale of lots or buildings within new subdivisions on which they are located are permitted, provided that:

1. They are nonilluminated or indirectly illuminated;

2. They do not exceed 64 square feet;

3. Not more than one such sign shall be located at each major approach to the subdivision;

4. They meet all requirements applying to principal structures with regard to yard, setback and height requirements;

5. Display of such signs shall be limited to a period of two years;

6. A permit is required.

(2) Prior to the expiration date of the permit for subdivision signs, the applicant may request one extension of two years. Signs shall be removed prior to the expiration of the two-year period or extension thereof. If the sign has not been removed, the town may enter the premises upon which the sign is located and remove such sign at no liability to the town and at the expense of the owner.

(3) Permanent subdivision signs without advertising may remain as long as they are adequately maintained. Subdivisions remote from a main thoroughfare may locate one off-premises sign, provided the sign meets the specifications for subdivision signs detailed below:

(a) They are nonilluminated or indirectly illuminated;

(b) They do not exceed 64 square feet;

(c) Not more than one such sign shall be located at each major approach to the subdivision;

(d) They meet all requirements applying to principal structures with regard to yard, setback and height requirements;

(e) They are landscaped and well-maintained in the best interest of the developer and the community;

(f) A permit is required.

(4) In the event a freestanding sign is destroyed by fire, flood or storm and such damage was not caused nor contributed to by the owner, occupant or user, one temporary message board may be permitted, subject to the following conditions:

(a) It shall be displayed only during daylight hours (sunup to sundown);

(b) It shall not exceed six square feet in area;

(c) It shall not be displayed within any highway or local road right-of-way and shall be on the property of the advertising business;

(d) It shall not be displayed when conditions could cause public injury or property damage;

(e) It shall not be displayed longer than 60 days;

(f) No fees or permits are necessary.

(5) Roof signs will be permitted on gambrel and A-frame roofs subject to the following conditions:

(a) Gambrel roofs and A-frame roofs have a minimum pitch of 29/12;

(b) Signs only be allowed on the steepest portion of the roof;

(c) Maximum height of any sign shall be 20 feet from the average finished grade.

(d) Signs shall not be located on the ridge of the roof.

(D) *Detailed specifications for commercial zone and light industrial zones signs.*

(1) For each lot, tract or parcel, the maximum square footage of signage that may be displayed shall be based on the following formula. (For shopping centers see subsection (D)(11).)

(a) On lots with 100 feet or less of road or highway frontage, 36 square feet of signage, including any combination of freestanding and manual message board, may be displayed on one freestanding sign, such sign not to exceed 20 feet in elevation above street grade, measured from ground elevation to the top of the sign structure. An additional two square feet of wall sign may be displayed on the building for each lineal foot of building frontage. However, no single wall sign shall exceed 100 square feet.

(b) On lots with 101 feet to 150 feet of road or highway frontage, 50 square feet of signage, including any combination of freestanding and manual message board, may be displayed on one freestanding sign, such sign not to exceed 20 feet in elevation above street grade, measured from ground elevation to the top of the sign structure. An additional two square feet of wall sign may be displayed on the building for each lineal foot of building frontage. However, no single wall sign shall exceed 100 square feet.

(c) On lots with 151 feet or more of road frontage, 64 square feet of signage, including any combination of freestanding and manual message board, may be displayed on one freestanding sign, such sign not to exceed 20 feet in elevation above street grade measured from ground elevation to the top of the sign structure. An additional two square feet of wall sign may be displayed on the building for each lineal foot of building frontage. However, no single wall sign shall exceed 100 square feet.

(d) On any lot with 151 feet or more of road frontage, greater than five acres, where the principal building is a minimum of 150 feet from the right-of-way, 64 square feet of signage, including any combination of freestanding and manual message board, may be displayed on one freestanding sign, such sign not to exceed 20 feet in elevation above street grade measured from ground elevation to the top of the sign structure. An additional two square feet of wall sign may be displayed on the building for each lineal foot of building frontage. However, no single wall sign shall exceed 250 square feet. In no case shall total area of wall signs exceed 600 square feet per building frontage.

(e) One flag per business shall be allowed (effective date January 1, 2015).

(2) Measurements of sign size for computation of compliance with this chapter is based on the size of the letters and then the total area of the letters. This total shall be the total signage permitted based upon the business building frontage measurement. (See illustration in Appendix C.) In no case shall the solid surface of base and frame exceed double the permitted sign area.

(3) Lighting shall be shielded so as to prevent a direct view of the light from a residence or a street in a residential district.

(4) Temporary signs, banners, placards, decorations or the like, constructed of light materials, for the promotion of noncommercial enterprises or events taking place in the town, may be displayed in any commercial zone. No such signs may be erected on or affixed to public property nor exceed 100 square feet and must not encroach on the right-of-way. These temporary signs must be removed within five days after the event has taken place. The sign shall be attached to a building.

(5) Temporary signs, banners, placards, decorations or the like, constructed of light materials, for the promotion of commercial enterprises, grand openings or similar uses taking place in the town, may be displayed for a period not to exceed 90 days, upon the responsible party having secured a permit for such from the Zoning Administrator. No such sign shall exceed 100 square feet. The sign shall be attached to a building.

(6) A general informational sign located on site, such as "no parking," "entrance," "loading only," "telephone" or other similar directives shall not exceed 3 square feet, and total square footage of all informational signs shall not exceed 33 square feet.

(7) For each food service business, menu boards and preview boards for each drive-through may be permitted, provided that the menu board does not exceed 35 square feet in total display area and does not exceed 5 feet in height above street or driveway elevation.

(8) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related or composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered to be a single sign.

(9) The surface area of a sign shall be computed as including the entire area within a regular geometric form comprising all of the informational display area of the sign and all of the elements of the matter displayed. The area of a double-faced sign shall be the area of one face of the sign, provided that the two faces are of the same size and are parallel to one another with no more than 24 inches between each sign face.

(10) Window signs shall be allowed on the inside or the outside of glazing provided that they do not comprise more than 25% of the gross glazing area of the building and are not separately illuminated or backlit by lighting installed for that purpose. Miscellaneous business signs, such as credit card signs, open and closed signs, hours of operation, etc., are not included in this calculation, provided that each group/set of miscellaneous business signs do not exceed two square feet in area and only one group/set of such signs are allowed per entrance. Signs placed on the outside of the window must be made of weatherproof materials and shall be maintained in good order. Window signs shall not contain luminous or fluorescent colors or materials that glow when illuminated by any light source. The signs may not suggest movement, be animated in any way, blink or change when viewed from different angles. All window signs shall be brought into compliance by June 1, 2010.

(11) Neon signs for internal illumination visible from the right-of-way cannot exceed a total area of 20 square feet. These signs may not suggest movement, be animated in any way or blink on and off.

(12) Shopping center/office complex signs.

(a) Areas within a shopping center/office complex shall be identified as primary or secondary areas. Primary areas are those composed of 20,000 square feet or more of retail or office space. Secondary areas are those composed of less than 20,000 square feet of retail or office space.

1. For primary uses within a shopping center/office complex, 2 square feet of business sign area may be displayed for each lineal foot of store/office frontage. However, no sign shall exceed 150 square feet. Multiple signs on the store/office frontage may be displayed, so long as the total area for each individual sign does not exceed 150 square feet and the total area of all combined signs on the face of the store/office does not exceed 2 square feet for each lineal foot of store/office frontage. Stores/offices which are located on a corner with a wall facing a different street or road from the front of the building shall be permitted to display a sign with an area no larger than 36 square feet on the sidewall.

(b) 1. Secondary uses may display 36 square feet of sign area on the front of the building; however, if the store/office frontage exceeds 30 linear feet, permitted sign area shall be calculated at 1¼ square feet of sign area for each linear foot of store frontage, up to a maximum of 50 square feet.

2. Store/office located on a corner with a wall facing a different road or street from the front of the building shall be permitted to display a sign with an area no larger than 36 square feet on the side wall. Total sign area on secondary use corner stores/offices, with a wall facing a different road or street from the front of the building, shall not exceed 72 square feet of signage.

(c) One freestanding sign, including any combination of freestanding and manual message board, not to exceed a total sign area of 64 square feet, will be authorized for a shopping center/office complex. A freestanding sign must identify the name of the shopping center/office complex and may also identify the names of the individual stores/offices, but may not exceed the square footage set forth above. A freestanding sign may not exceed 20 feet in elevation above street grade, measured from ground elevation to the top of the sign structure.

(d) 1. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related or composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered to be a single sign.

2. The surface area of a sign shall be computed as including the entire area within a regular geometric form comprising all of the display area of the sign and including frames and all of the elements of the matter displayed. The area of a double-faced sign shall be the area of one face of the sign, provided that the two faces are of the same size and are parallel to one another with no more than 24 inches between each sign face.

(13) Remote parking identification signs shall be located on the remote parking lot and no more than 30 square feet and no greater than ten feet in elevation above street grade, measured from ground to the top of the sign structure.

(14) For event gardens as an accessory use to hotels or motels, the wall sign size allowance for the principal use may be shared between the hotel/motel and the accessory use with no greater than 36 square feet allocated to the accessory use. Wall signage may be placed

on permanent entrances ways only, such as an entrance trellis or arch. Signage shall not be placed on fencing.

(15) LED String Accent Lighting defines as lines of LED lighting no greater than 2 inches in diameter that are continuous. For purposes of this chapter the LED Accent Lighting shall be permitted in the Commercial Zoning District with the following conditions:

1. LED String accent lights shall be straight continuous colored lined.
2. LED String Accent Lights shall be parallel to the ground (no shaped or other outlining permitted)
3. LED String Accent Lights shall only be allowed on one structure per commercial site. No more than two (2) lines of LED String Accent Lights shall be permitted and lines cannot be separated by more than four (4) feet on the structure.
4. LED String Accent Lights shall be limited to one color per commercial site.
5. LED String Accent Lights may not suggest movement, flashing, be intermittently illuminated or appear to be flashing or glittering.
6. LED String Accent Lights shall be located no higher than 15 feet from finished grade on the site.
7. LED String Accent Lights shall be permanently affixed to the structure not hanging or temporary attached to the structure (temporary attachment includes adhesive).
8. LED String Accent Lights must be maintained and proper working order. Strings that are partially lit or not functioning properly will be required to be turned off until removed or repaired.

(E) *Prohibited signs.*

(1) Signs which are flashing or intermittently illuminated or appear to be flashing or glittering or moving and strings of lights are prohibited in commercial and light industrial sites except as exempt in § 153.077(B)(11). No strings of flags shall be permitted in any zone.

(2) Billboards.

(3) Portable signs, except those allowed in division (C)(4).

(4) Roof signs except as permitted in division (C)(5).

(5) No sign shall make use of the words "Stop," "Slow," "Caution," "Danger" or any other word, phrase, symbol or character in such manner as is reasonably likely to be confused with traffic directional and regulatory signs.

(6) Signs that impair vision clearance at intersection.

(7) Vehicular signs.

(8) Signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. The signs may remain in place for not more than 90 days.

(9) Signs which are attached to utility poles, trees, fences, publicly-owned signs or in an unauthorized manner to walls or other signs.

(10) Off-premises accessory use directional signs are prohibited. Existing off-premises accessory use directional signs and support structures shall be removed by June 25, 2002.

(11) Tourist Oriented Directional Signs (TODS).

(12) Projection signs.

(13) Exposed neon, argon, krypton or similar gas lighting except as outlined in (B)(10) above.

(14) LCD and electronic message boards except as outlined in (B)(5) above.

(15) LED signs, string accent lights, or lighting unless used as a light source to internally or directly illuminate wall or freestanding signage *or as provided in (D)(15) above.*

(16) Flags that are torn greater than two inches or that are frayed (threadbare, worn, tattered, unraveled, etc.) in excess of one inch and flags not hanging in the manner it was designed or not hanging in a legal manner.

(F) *Unsafe signs.* Should any sign become insecure or in danger of falling or otherwise be unsafe, in the opinion of the Building Inspector, then the owner thereof, or the person maintaining the same, shall, upon written notice from the Building Inspector, forthwith in the case of immediate danger or in any case within ten days, secure the same in a manner to be approved by the Building Inspector in conformity with the provisions of this section or remove the sign. If such order is not complied with within ten days, the Building Inspector shall remove such sign at the expense of the owner or lessee thereof.

(G) *Maintenance.* All signs, together with all their supports, braces, guides and anchors, shall be kept in repair and, unless of galvanized or noncorroding metal, shall be thoroughly painted at least once every two years.

(H) *Design standards.* All signs shall be constructed and designed according to generally accepted engineering practices to withstand wind pressures and load distribution as specified in the State Building Code.

(I) *Obstruction of fire escapes, windows, doors and the like.* No outdoor advertising sign shall be installed, erected or constructed so as to obstruct any fire escapes or any window or door opening used as a means of egress or so as to prevent free passage from one part of a roof to any other part thereof. No sign shall be attached in any manner to a fire escape or be placed in such manner as to interfere with any opening required by law for ventilation.

(J) *Alteration or removal of unlawful signs.*

(1) If any sign shall be installed, erected or constructed in violation of any of the terms of this section, the Zoning Administrator shall notify by registered mail or written notice, served personally, the owner or lessee thereof to alter such sign so as to comply with those zoning regulations and to secure the necessary permit therefor or to remove the sign immediately.

(2) Any sign located within a town right-of-way shall be subject to immediate removal by the Zoning Administrator.

(3) The failure to remove such sign as provided in this section shall be a misdemeanor. Each day the violation exists shall constitute a separate offense.

(4) The Zoning Administrator shall have the authority to remove and discard any sign in violation of the sign regulations or which is located upon public property.

(5) All signs shall be brought into compliance within three years of February 28, 2001.

(K) *General penalty; enforcement of ordinance; continuing violations.* See § 10.99.

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PLANNING BOARD RECOMMENDATIONS

Proposed Amendment Title: Zoning Amendment – §153.077 Signs - Modifications to allow ***LED String Accent Lights*** in the Commercial Zone

Approval/Denial: Planning Board finds that the Zoning Amendment –§153.077 Signs - Modifications to allow ***LED String Accent Lights*** in the Commercial Zone ***is/is not*** consistent with the adopted Land Use Plan.

Therefore, the Planning Board finds the proposed amendment is **consistent/inconsistent** with the objectives and policies contained in the Kill Devil Hills Land Use Plan and/ or other officially adopted plans of the Town that are applicable.

This report reflects the recommendation of the Planning Board with a vote of 5 to 0, this twenty-first day of July, 2020.

Attest:

Planning Board Chairman

Secretary of Planning Board