TOWN OF KILL DEVIL HILLS

Land Where Flight Began

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that on Tuesday, August 17, 2021, at 5:30 p.m., the Kill Devil Hills Planning Board will hold its regular meeting of the month in the Town Hall meeting room, located at 102 Town Hall Drive, Kill Devil Hills.

A printed packet is available for public inspection in the Planning Department, 102 Town Hall Drive, off Colington Road. Please contact the Department at 252-449-5318 to schedule an inspection time. Packet materials can also be viewed on the Town's website at https://www.kdhnc.com/738/Planning-Board.

Written comments for the Planning Board public comment can be emailed to info@kdhnc.com. Comments must include your name and address and are limited to three minutes for individuals, and five minutes when speaking for a group.

AGENDA

Call to Order
Agenda Approval
Approval of the Minutes of the July 20, 2021 meeting
Public Comment (Time limit of 3 minutes per person; 5 minutes per group)
Response to Public Comment
Old Business
New Business

1. **Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting**

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)
Response to Public Comment
Board Member Comment
Adjournment

Posted this 11th day of August 2021.

Jennifer Stecher
Planning Board Clerk

Copies to: *Mayor and Board of Commissioners, Planning Board members in their packet materials; Town Manager; Town bulletin boards; Sunshine List, including all news media; Electronic Distribution List; Town website and social media; file*

Minutes of the July 20, 2021, meeting of the Kill Devil Hills Planning Board held at 5:30 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Chairperson Howard Buchanan, Mark Evans, T. Dillon Heikens, Mike Lowack, Ron Seidman, II, and Mary Simpson.

Guests: Michael Strader, Quible Engineer

Others Present: Cameron Ray, Assistant Planning Director; Ryan Lang, Senior Planner; and Jennifer Stecher, Clerk to the Planning Board

Call to Order

At 5:30 p.m., Chairperson Howard Buchanan called the July 20, 2021, meeting of the Kill Devil Hills Planning Board to order and welcomed everyone present.

Agenda Approval

Chairperson Buchanan requested the agenda be amended to add the election of a vice-chairperson due to the June 30, 2021 resignation of Vice-Chair Chip Almoney. Chairperson Buchanan moved to approve the agenda for this meeting, as amended. Mike Lowack seconded the motion, and the motion carried by a unanimous, 4-0, vote.

Approval of the Minutes of the May 18, 2021 meeting

Mr. Lowack moved to approve the minutes of the May 18, 2021, meeting, as presented. Mark Evans seconded that motion, and the motion carried by a unanimous, 4-0, vote.

Mary Simpson arrived at 5:32pm

Public Comment

Response to Public Comment

Old Business

New Business

1. Proposed Zoning Amendment — Amend §153.227 Light Industrial One Zone Conditional Uses - Add "Tattoo Studio"

Assistant Planning Director Cameron Ray explained the Board of Commissioners at its June 14, 2021 meeting, directed staff to draft a zoning amendment for "Tattoo Studio" to be a

conditional use within the Light Industrial One Zone (LI-1). Included in the meeting packet is an amendment to §153.227 Conditional Uses for the Light Industrial One Zoning District for "Tattoo Studio(s)." Contained within the amendment are recommended conditions for the use that include definition, separation requirements, health department/applicable state agency approval, hours of operation, and Planning Board and Board of Commissioners review. Staff recommended the requested amendment, as follows:

LIGHT INDUSTRIAL ONE ZONE (LI-1)
§153.227 CONDITIONAL USES.
(E) Tattoo Studio(s).

1.) Tattoo Studio(s) are an establishment which the activity of tattooing occurs. Tattooing means the inserting of permanent markings or coloration, or the production of scars, upon or under human skin through puncturing by use of a needle or other method. Tattoo studio(s) shall be a conditional use of the Light Industrial One Zone.
2.) Shall meet the separation requirements listed below for a minimum distance in a straight line from the property line including a "Tattoo Studio."
   a. Church, School, Public Park, or libraries: 200 feet
   b. Other Tattoo Establishments: 400 feet
3.) Health Department and any other applicable agency approval is required
4.) Hours of operation shall be limited 8:00 a.m. to 10:00 p.m.
5.) The Planning Board may recommend to the Board of Commissioners, and the Board of Commissioners may impose, any additional conditions they determine are appropriate based on surrounding.

Mark Evans moved to approve the Proposed Zoning Amendment - §153.227 Light Industrial One Zone Conditional Uses to add "Tattoo Studio" and forward it to the Board of Commissioners for its final determination with the consistency statement. Ron Seidman seconded the motion, which passed with a unanimous, 5-0, vote.

2. Site Plan Review – 1208 South Croatan Highway in the Commercial Zone – Proposed 2,500 Sq. Ft. Drive-Thru Restaurant, 25 Parking Spaces, and Associated Site Modifications

Mr. Ray noted the site plan review was submitted by Quible and Associates for the proposed construction of a new 2,500 sq. foot drive-thru restaurant with 25 parking spaces, drive-thru aisle and associated site improvements at 1208 South Croatan Highway. The proposed restaurant is a permitted use in the Commercial Zoning District (O) *Restaurant*. The plan calls for demolition of the existing shopping center. Included in the packet is a commercial site plan review application, site development plans, architectural plan, lighting plan, site narrative, stormwater calculations, willingness to serve from KDHWWTP, LLC, NCDOT permit package, the applicants response to Town staff technical review (1) comments, and most recent Staff comments. The applicant has addressed most of the Staff's initial technical review comments; however, the

following conditions remain to be addressed; which were highlighted in the memorandum of the meeting materials.

Mr. Ray noted that Staff recommends the Planning Board forward the Site Plan to the Board of Commissioners with a favorable recommendation after the listed Staff conditions have been addressed. Mr. Ray offered a representative for the Site Plan to respond to the concerns or comments made by Staff.

Mike Strader, an engineer with Quible and Associates, noted that he and his design team are in agreement with all Staff recommendations but wanted to offer some clarification regarding the request to connect Blue Jay Street with the proposed site plan. Mr. Strader felt the overall plan as presented will improve several non-conformities to the site and felt that connecting to Blue Jay Street would impede flow and add confusion to the drive-thru line. Mr. Strader reminded the board that Mr. Risoldi said the plan is compliant as is and that adding a connection to Blue Jay Street was a suggestion. Mr. Heikens, Mr. Evans, and Mr. Seidman expressed concern with not including a connection to Blue Jay Street. Mr. Strader's team looked at incorporating Blue Jay Street but found it would be cost-prohibitive to the project, and if traffic flow becomes a problem, then the connection could be made in the future.

Mr. Seidman moved to approve this Site Plan Review – 1208 South Croatan Highway in the Commercial Zone – Proposed 2,500 sq. ft. drive-thru restaurant, 25 parking spaces, and associated site modifications with a favorable recommendation based on the applicant meeting the conditions of Staff, with a site recommendation to connect Blue Jay Street and adjust staff parking that is adjacent to drive-thru and forward to the Board of Commissioners. Mr. Evans seconded the motion, which passed with a unanimous, 5-0, vote.

3. Vote for vice chair

Chairperson Buchanan asked for a nomination for vice-chair. Mike Lowack nominated Mark Evans for vice-chair of the Planning Board. Mary Simpson seconded the motion, which passed with a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Board Member Comment

Chairperson Buchanan offered congratulations to Mark Evans for becoming Vic-Chair of the Planning Board and recognized Mr. Chip Almoney's past dedication to serve the Town, wishing him the best of luck in his future endeavors.

Adjournment

There being no further business before the Planning Board at this time, Ron Seidman moved to adjourn the meeting. Mary Simpson seconded the motion, which passed with a unanimous, 6-0, vote.

It was 6:10 p.m.

Submitted by:

Jennifer Stecher
Planning Board Clerk

Director of
Planning and Inspections
MEREDITH GUNS

Building Inspector
MARTY SHAW
CHARLES THUMAN

Code Enforcement Officer
JORDAN BLYTHE

THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

Assistant Director of
Planning and Inspections
CAMERON RAY

Senior Planner
RYAN LANG

Zoning Administrator
DONNA ELLIOTT

PLANNING DEPARTMENT

August 17, 2021

Memorandum

To: Planning Board

From: Cameron Ray, Assistant Planning Director CR

Subject: Zoning Amendment Request — Outdoor Dining/Activity Area(s) Lighting

Attached is a Zoning Amendment request from Noosa Beach Grille, LLC and staff review comments. The request is to 153.077(C)(16) to allow strings of electric light bulbs for approved Outdoor Dining/Activity Area(s) for the purposes of supplementary lighting for patrons. Currently, strings of electric lights are allowed only from November 22nd through January 07th and July 02nd through July 06th per Town Code 153.077(B)(11). The applicant is requesting 153.077(C)(16) for Outdoor Dining/Activity Area(s) be allowed to have electric strings of lights year around and include several conditions as outlined. During Administrative review, Staff requested revisions to the text to meet staff comments and the applicant has provided in writing their consent to the changes (attached). Staff recommends the Planning Board forward the Zoning Amendment request below and consistency statement to the Board of Commissioners with a favorable recommendation.

§153.077 SIGNS.

(C) *Generally allowed.*

(16) Strings of electric light bulbs greater than (2) inches (Café Style Lighting) for the purpose of supplementary site lighting in approved Outdoor Dining/Outdoor Waiting Activity Areas for patrons on commercial sites and permanently attached to the structure that are not flashing or intermittently illuminated or appear to be flashing, fading, glittering, moving, or deemed a traffic distraction shall be permitted in the commercial zone with the following conditions:

a. Shall be parallel to the ground (no shaped or other outlining permitted)
b. Shall be limited to one continuous string.
c. Shall be limited to one color per commercial site.
d. Shall be located no higher than 15 feet from finished grade on the site.
e. Shall be permanently attached to the primary structure, accessory structure and permanent piling/poles. Attachment to any free standing or building signage is prohibited.
f. Shall be maintained and proper working order. Strings that are partially lit or not functioning properly or deemed a traffic distraction will be required to be turned off until removed or repaired.
g. Shall not be located within required parking, drive aisle, or landscaping buffer.

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: Proposed Zoning Amendment — §153.077(C)(16) Outdoor Dining/Activity Area(s) Lighting

Approval/Denial: Planning Board finds that the Proposed Zoning Amendment §153.077(C)(16) Outdoor Dining/Activity Area(s) Lighting ***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 ____to____, this the Seventeenth day of August, 2021.

Attest:

_____ _____

Planning Board Chairman Secretary of Planning Board

DocuSign Envelope ID: B236A59B-0E7C-4B85-9892-795AD171185E

Kill Devil Hills
Zoning Amendment Application
Chapter 153 Zoning

Name of Applicant: Noosa Beach Grille LLC

Address of Applicant: 2003 S Croatan Highway, Kill Devil Hills, NC 27948

Telephone Number: (252) 715-6393

Agent for Applicant (if applicable): Susan Stanovsek

Agent Address: 8729 S Old Oregon Inlet Rd, Nags Head, NC 27959

Telephone Number: (440) 220-2227

I hereby request an amendment to the following specific section of the Zoning Ordinance:

§ 153.077(C)~~(15)(g)~~ (16) * Amended for applicant 8/5/21. Email attached

Proposed language for zoning amendment: See Annex 1. * Revised 8/5/21 * Revised 8/12 Per Staff review comments.

Justification for Amendment: See Annex 2.

A $250.00 non-refundable application fee is due and payable to the Town of Kill Devil Hills.

Signature of Applicant/Agent: DocuSigned by: C49DBEC3C91140B...

Staff Only:

Date Received: 7/23/21

Received by:

Annex #1: 8/12/21

§153.077 SIGNS.

(C) *Generally allowed.*

(16) Strings of electric light bulbs greater than (2) inches (Café Style Lighting) for the purpose of supplementary site lighting in approved Outdoor Dining/Outdoor Waiting Activity Areas for patrons on commercial sites and permanently attached to the structure that are not flashing or intermittently illuminated or appear to be flashing, fading, glittering, moving, or deemed a traffic distraction shall be permitted in the commercial zone with the following conditions:

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b. Shall be limited to one continuous string.
c. Shall be limited to one color per commercial site.
d. Shall be located no higher than 15 feet from finished grade on the site.
e. Shall be permanently attached to the primary structure, accessory structure and permanent piling/poles. Attachment to any free standing or building signage is prohibited.
f. Shall be maintained and proper working order. Strings that are partially lit or not functioning properly or deemed a traffic distraction will be required to be turned off until removed or repaired.
g. Shall not be located within required parking, drive aisle, or landscaping buffer.

ANNEX 2: JUSTIFICATION FOR AMENDMENT

The Applicant's proposed amendment is justified by the following reasons:

1. **Public health and welfare**

   The proposed amendment will allow the Applicant to illuminate its outdoor dining area to the benefit of patrons in three (3) ways. First, patrons will enjoy a safer dining environment because the Applicant's outdoor dining area will be more visible. This higher visibility minimizes the risk for patrons and the Applicant's staff to suffer personal injuries by tripping. Second, the higher visibility will reduce eye strain for patrons associated with poorly lit environments. Third, the better illuminated outdoor dining area minimizes the risk for vehicles entering the Applicant's property to collide with the outdoor dining area because it will be more visible to the vehicles' operators. In turn, patrons and the Applicant's staff will enjoy a safer outdoor dining environment.

2. **Aesthetics**

   Section 153.077 expressly identifies a "pleasing aesthetic environment" as a justification for the section's exemption. The Applicant submits that its intended LED String Lighting will be a highly aesthetically pleasing addition to the Commercial Zoning District and therefore further the objective of § 153.077's exemptions.

3. **Traffic safety**

   As stated in (1) above, the proposed amendment will allow the Applicant to provide a more visible outdoor dining environment to its patrons. The Applicant submits that the proposed amendment will therefore enhance traffic safety by ensuring that vehicle operators passing by the Applicant will have notice of the outdoor dining area's presence. The intended LED String Lighting will not be so bright as to present a distraction for passersby.

Ray, Cameron

From: susan stanovsek <noosabeachgrille@gmail.com>
Sent: Thursday, August 12, 2021 4:11 PM
To: Ray, Cameron
Subject: Re: Zoning Amendment Request - Cafe Lights

Perfect with the changes please submit thanks so much

On Thu, Aug 12, 2021 at 4:08 PM Ray, Cameron <Cameron@kdhnc.com> wrote:

Good Afternoon Susie,

The zoning amendment that was submitted was reviewed by all Town Departments. The police department requested minor modifications. They are shown highlighted below:

§153.077 SIGNS.

(C) *Generally allowed.*

(16) Strings of electric light bulbs greater than (2) inches (Café Style Lighting) for the purpose of supplementary site lighting in approved Outdoor Dining/Outdoor Waiting Activity Areas for patrons on commercial sites and permanently attached to the structure that are not flashing or intermittently illuminated or appear to be flashing, fading, glittering, moving, or deemed a traffic distraction shall be permitted in the commercial zone with the following conditions:

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c. Shall be limited to one color per commercial site.

d. Shall be located no higher than 15 feet from finished grade on the site.

e. Shall be permanently attached to the primary structure, accessory structure and permanent piling/poles. Attachment to any free standing or building signage is prohibited.

f. Shall be maintained and proper working order. Strings that are partially lit or not functioning properly or deemed a traffic distraction will be required to be turned off until removed or repaired.

g. Shall not be located within required parking, drive aisle, or landscaping buffer.

If you could review these modifications and indicate if you agree to these changes, this will be the language that will be reviewed by the KDH Planning Board and Board of Commissioners.

Sincerely,

Cameron Ray, CFM

Assistant Planning Director

PO Box 1719

Kill Devil Hills, NC 27948

252-449-5311 phone

252-441-4102 fax

www.kdhnc.com

From: susan stanovsek [mailto:noosabeachgrille@gmail.com]
Sent: Thursday, August 5, 2021 10:16 AM
To: Ray, Cameron <Cameron@kdhnc.com>
Cc: Lang, Ryan <rlang@kdhnc.com>
Subject: Re: Zoning Amendment Request - Cafe Lights

Looks great please submit this for the Zoning Amendment request .

Thanks so much,

Susie Stanovsek

Noosa Beach Grille

On Thu, Aug 5, 2021 at 9:38 AM Ray, Cameron <Cameron@kdhnc.com> wrote:

Good Morning,

Attached is the language that was discussed yesterday in our meeting. Please review and indicate if this is the language you would like to be submitted for the Zoning Amendment request that you submitted on 7/23/21 to be reviewed by the KDH Planning Board on August 17, 2021.

Please let me know if you have any further questions.

Sincerely,

Cameron Ray, CFM

Assistant Planning Director

PO Box 1719

Kill Devil Hills, NC 27948

252-449-5311 phone

252-441-4102 fax

www.kdhnc.com

1881

TOWN OF KILL DEVIL HILLS

PLANNING & INSPECTIONS DEPARTMENT

(252) 449-5318

NON-REFUNDABLE FEES

DATE: 7/26/21

- ☐ Administrative Review
- ☐ Board of Adjustment
- ☐ CAMA
- ☐ Copies
- ☐ Exempt/Subdivision Plat
- ☐ Fines and/or Re-inspection Fee
- ☐ Site Plan Review
- ☐ Text Amendment
- ☐ _____

AMOUNT: [illegible] JUL 26 2021

RECEIVED FROM: [illegible]

DESCRIPTION: [illegible]

BY: _____

Ray, Cameron

From: Harris, Dana
Sent: Monday, August 9, 2021 8:22 AM
To: Ray, Cameron
Subject: RE: Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting

Cameron,

Add: 1. h. Lights shall be continuous burning, not flashing or fading.
2. f. Add: lit, not functioning properly or deemed a traffic distraction will be required to be turned off until removed
or Repaired or deemed not a traffic distraction

Thanks

Dana

From: Ray, Cameron
Sent: Thursday, August 5, 2021 3:58 PM
To: Elliott, Donna <DONNA@kdhnc.com>; Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>; Harris, Dana <dharris@kdhnc.com>; Tilley, Troy <troy@kdhnc.com>; Lang, Ryan <rlang@kdhnc.com>; Guns, Meredith <MEREDITH@kdhnc.com>
Subject: Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting
Importance: High

Good Afternoon All,

Attached is a **Zoning Amendment Request** from Noosa Beach Grille LLC. This Zoning Amendment Request would allow strings of electric light bulbs greater than (2) inches (Café Style Lighting) for approved Outdoor Dining/Outdoor Waiting Activity Areas on commercial sites including the conditions shown below.

§ 153.077 SIGNS.

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g. Shall not be located within required parking, drive aisle, or landscaping buffer.

Ray, Cameron

From: Tilley, Troy
Sent: Friday, August 6, 2021 9:19 AM
To: Ray, Cameron
Cc: Risoldi, John
Subject: RE: Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting

Cameron,

As long as the modification/requests are in compliance with the fire code.

Troy N. Tilley
Fire Chief
Town of Kill Devil Hills, NC
252-480 4060 ext. 5222

From: Ray, Cameron <Cameron@kdhnc.com>
Sent: Thursday, August 05, 2021 3:58 PM
To: Elliott, Donna <DONNA@kdhnc.com>; Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>; Harris, Dana <dharris@kdhnc.com>; Tilley, Troy <troy@kdhnc.com>; Lang, Ryan <rlang@kdhnc.com>; Guns, Meredith <MEREDITH@kdhnc.com>
Subject: Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting
Importance: High

Good Afternoon All,

Attached is a **Zoning Amendment Request** from Noosa Beach Grille LLC. This Zoning Amendment Request would allow strings of electric light bulbs greater than (2) inches (Café Style Lighting) for approved Outdoor Dining/Outdoor Waiting Activity Areas on commercial sites including the conditions shown below.

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g. Shall not be located within required parking, drive aisle, or landscaping buffer.

Ray, Cameron

From: Dail, Derek
Sent: Thursday, August 12, 2021 4:22 PM
To: Ray, Cameron
Cc: Albright, Steve
Subject: RE: Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting

Public Services has no comments.

From: Ray, Cameron
Sent: Thursday, August 12, 2021 3:52 PM
To: Dail, Derek <derek@kdhnc.com>; Albright, Steve <Steve@kdhnc.com>
Subject: FW: Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting
Importance: High

Did you guys have any comments on this amendment? Admin does not have much for staff members tomorrow so I am trying to get them their packet this afternoon.

Thanks,
Cam

From: Ray, Cameron
Sent: Thursday, August 5, 2021 3:58 PM
To: Elliott, Donna <DONNA@kdhnc.com>; Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>; Harris, Dana <dharris@kdhnc.com>; Tilley, Troy <troy@kdhnc.com>; Lang, Ryan <rlang@kdhnc.com>; Guns, Meredith <MEREDITH@kdhnc.com>
Subject: Zoning Amendment Request - Outdoor Dining/Activity Area(s) Lighting
Importance: High

Good Afternoon All,

Attached is a **Zoning Amendment Request** from Noosa Beach Grille LLC. This Zoning Amendment Request would allow strings of electric light bulbs greater than (2) inches (Café Style Lighting) for approved Outdoor Dining/Outdoor Waiting Activity Areas on commercial sites including the conditions shown below.

§ 153.077 SIGNS.

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