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

September 13, 2021

Memorandum

To: Debbie Diaz, Town Manager

From: Cameron Ray, Assistant Planning Director

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).

On August 17, 2021 the Planning Board recommended approval of the below attached amendment to 153.077(C)(16):

§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.

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.

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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.*

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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

1501

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
- [x] 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.

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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,

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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 5 to 0, this the Seventeenth day of August, 2021.

Attest:

Mark Evans
Planning Board Chairman

Secretary of Planning Board