

Minutes of the January 18, 2022, 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: Vice Chairperson Mark Evans, T. Dillon Heikens, Mike Lowack, Natalie Painter and Mary Simpson

Members Absent: Chairperson Howard Buchanan, and Ron Seidman, II

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

Call to Order

At 5:30 p.m., Vice Chairperson Mark Evans called the January 18, 2022, meeting of the Kill Devil Hills Planning Board to order.

Agenda Approval

Mr. Lowack moved to approve the agenda for this meeting, as presented. Ms. Simpson seconded the motion, which carried by a unanimous, 5-0, vote.

Approval of the Minutes of the December 14, 2021 meeting

Mr. Lowack moved to approve the minutes of the December 14, 2021, meeting, as presented. Ms. Painter seconded the motion, which carried by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Old Business

New Business

1. Site Plan Review – 1836 North Virginia Dare Trail: Jolly Roger Restaurant – Proposed 4,118 Square Foot Lounge Addition

The site plan was submitted by Albemarle & Associates, Ltd. for the proposed construction of a 4,118 square foot “Lounge” addition with a 256 square foot covered deck, 23 new parking spaces, and associated site improvements at the existing Jolly Roger restaurant located at 1836 North Virginia Dare Trail. The proposed plan includes filling in a portion of the existing pond to increase the parking and drive aisle width on the north-western portion of the property, and adding

a bulkhead and boardwalks along the existing pond. The proposed use is considered an addition of the existing use of (O) "Restaurant" and is a permitted use within the Commercial Zoning District. The packet includes a cover letter, commercial site plan review application, stormwater narrative/calculations, KDHWTP willingness to serve, parking agreement with Outer Banks Theaters, LLC, nonconformities worksheet, correspondence with NCDOT, proposed site/architectural plans, and applicant response to Staff Tech 1 review.

The applicant has addressed most of Staff's initial technical review comments; however, the following conditions remain to be addressed:

1. Sedimentation and Erosion Control Plan shall provide proposed stabilization methods, ground cover, and silt fence locations.
2. Provide existing stormwater improvement protections in areas of disturbance.
3. Financial Responsibility and Ownership Form required.
4. Notes: a. #3 Legal Agreement Reference Required.
5. Sheet C204 Handicap Signage required to reference General Statute GS20-37.6
6. Sheet C202 Landscaping Plan: Fence on south property line is required to be inside of landscaping buffer per Chapter 153.073 "In all cases where a fence is constructed, the required landscaped area shall be located between the fence and the property line." Extend fence west to end of landscaped area.
7. Sheet C203 Lighting Plan: Proposed Lighting Plan needs to provide average minimum and maximum average foot candles. Add note "All lighting shall be contained within the perimeter of the site by design, orientation or shielding of the light source per Chapter 153.074(E)(3)."

Staff recommended that the Planning Board forward the plan to the Board of Commissioners with a favorable recommendation after the above listed conditions have been addressed.

John Delucia, of Albemarle & Associates, Ltd., was present to answer questions for the applicant. After some discussion, the Board was satisfied with voting on the matter.

Mr. Heikens moved to approve and forward the Site Plan Review – 1836 North Virginia Dare Trail: Jolly Roger Restaurant – Proposed 4,118 Square Foot Lounge Addition to the Board of Commissioners with a favorable recommendation. Ms. Simpson seconded the motion, which carried by a unanimous, 5-0, vote.

2. Zoning Amendment Request – 153.002 Definitions & 153.177(H)(8) Outdoor Dining Activity Area(s): Allow Sail Shade(s)

The amendment request is to Chapter 153 Zoning, §153.002 and §153.177(H)(8) for allowing sunshade(s) to be used in Outdoor Dining Activity Area(s), which is a Special Use within the Commercial Zoning District. The request would allow for sunshades to be permitted for shading in outdoor dining areas within the building setbacks. During administrative review, Staff proposed revisions to the original request. The changes from the original request included: revision of name of object to the industry standard "Sail Shade," definition of "Sail Shade," and conditions including lot coverage, height limit, area limit, size limits, NC Building Code compliance, and

maintenance requirements. Staff suggested revisions that are important for consistency with interpretation, and the conditions listed are to ensure the intent of the ordinance and applicable codes are met. The revisions were presented to the applicant, which the applicant consented to. Staff recommended the Planning Board forward the following revised zoning amendment request to §153.002 Definitions and §153.177(H)(8) Commercial Zone Special Uses and consistency statement to the Board of Commissioners with a favorable recommendation:

153.002 Definitions

Sail Shade: A flexible fabric membrane tensioned between several anchor points designed to provide shade from the sun's rays. Intended for temporary seasonal use at Outdoor Dining Activity Area(s).

Commercial Zone (C)

153.177 – Special Uses

(H) *Outdoor dining activity area(s).*

(8) Outdoor dining activity area(s) may not be roofed or shaded in any way other than standard table umbrellas *and sail shades(s)*. Erection of a tent subject to special use or event permit from the town is not prohibited. Sail shade(s) shall be permitted provided the following conditions are met:

1. *Shall be located within setbacks*
2. *Shall be calculated for total lot coverage*
3. *Height shall not exceed 15 feet*
4. *No greater than 40% of the approved Outdoor Dining Activity Area can be covered with sail shade(s)*
5. *Individual sail shade(s) shall not exceed 400 square feet*
6. *Meet all requirements of the NC Building Code*
7. *Sail shade(s) shall be maintained as designed and if frayed (threadbare, worn, tattered, unraveled, etc.) or unsafe the sail shade will be required to be removed, repaired, or replaced*

After some discussion the group agreed to vote on the zoning amendment request.

Mr. Lowack moved to approve and forward the Zoning Amendment Request – 153.002 Definitions & 153.177(H)(8) Outdoor Dining Activity Area(s): Allow Sail Shade(s), with consistency statement, with a favorable recommendation to the Board of Commissioners. Ms. Simpson seconded the motion, which carried by a unanimous, 5-0, vote.

Public Comment

Response to Public Comment

Board Member Comment

Adjournment

There being no further business before the Planning Board at this time, Ms. Simpson moved to adjourn the meeting. Ms. Painter seconded the motion, which passed with a unanimous, 5-0, vote.

It was 5:55 p.m.

Submitted by:

Jennifer Stecher
Planning Board Clerk