

Investigate-Research-Develop-Recommend
(North Carolina General Statute 160A-387)

Sunset Beach Planning Board-Town of Sunset Beach
Minutes From September 3, 2009

Members Present

Bill McDonald-Chairman
Gene Allen-Vice Chairman
Eddie Walters
Leon August
Bob Perry
Sybil Kesterson
Al Siebert

Members Absent

None

Staff

Jeff Curtis
Cindy Nelson

1. Call to Order-9:00 am
2. Roll Call-Quorum Present
3. Agenda Comments-None
4. Approval of Minutes-Approval of Minutes from the August 6, 2009 Session.
Gene moved the minutes be approved. Seconded by Leon.
Motion carried unanimously.
5. Building and Zoning Administrator Report-None
6. Public Hearing Topics

The Chairman opened the Public Hearing

1. Add Section 151.212 (M) MB-1/Electronic Gaming Operation/Special Uses Permissible on Appeal to the Board of Adjustment.
 - a. Section 151.077 Off-Street Parking Space Requirements
 - b. Section 151.003 Definitions

Jeff explained this change was to address electronic gaming/sweepstakes operations that have become an issue. His proposal is consistent with ordinances from near by towns.

Jeff asked the board to consider the following items:

- a. Reduce or leave the 1,500 foot distances proposed in sections (M) (a) and (b).
- b. Times of operation
- c. Expand to other business districts

Public Hearing closed for board discussion as there were no visitor comments.

Bob asked if these were video gaming machines or not? Jeff said that they were not. Bob also asked if there were restrictions against children being allowed. Visitor Mark Kaplan said the state does not have any legal age regulation.

The Chairman asked the board if they wanted to send this recommendation to council and then if any modifications are appropriate they can be addressed at that time.

Eddie said the issue that he has is that the town has worked hard to maintain a family atmosphere. And that people go to other places like Myrtle Beach to enjoy these types of activities. He would like to see us limit the number of machines that would justify opening up this type of business. Eddie asked Jeff if the Town Attorney had a problem with this.

Jeff's answer was that the town attorney said you cannot make it so restrictive that a business would not be able to operate.

Eddie asked if the town could be legally challenged if it were so restrictive. Jeff said that could happen.

The Chairman entertained a motion to continue the public hearing till there is more clarification from the attorney. Eddie voiced that this is important and action should be taken as soon as possible. Eddie said he was not opposed to over reacting as opposed to not acting. He proposed that we take this as written; change the number of machines allowed from twenty to one or two at maximum, make times of operation

Leon said he liked the 1,500 foot distance. Al said he would like to see language put in section (M) to say, "NC State Approved...." Gene said he would like to see that in the definition also.

Visitor Dave Stewart said the law does state there are allowed to be four machines per store front. Dave further stated this would apply to stand alone machines that are not tied to the internet. Gene said that if we allow one machine, than we would be allowing four? Jeff said you could not go more restrictive than the state allows. Eddie asked if *up to four* meant to have four, than could we allow only one machine?

Jeff asked the board to consider allowing this in other business zoning districts such as: MB-2, BB-1, and MUD. Eddie did not see where we would want to encourage it in other districts. Jeff's concern was that MB-1 is very limited to where a business could operate. Eddie said he didn't have a problem with one or two machines in a business location, just not a "gaming parlor". After some discussion it was decided to include MB-1, MB-2, MUD, and BB-1 as a Special Use Permissible on Appeal to the Board of Adjustment.

The Chairman entertained a motion that this be applied to MB-1, MB-2, BB-1, and MUD, and on item (c), then, change the twenty to one. Gene made the motion. Seconded by Leon. Motion carried unanimously.

2. Amendment to Sections 151.148, 151.178, 151.193, 151.213, 151.273, 151.302, and 151.317 Dimensional Requirements for Through Lots in All Zoning Districts.

Jeff said this was addressed with the BB-1 District, and will go to the council for approval on September 14. There was interest in applying this to all the districts in town. However, there will be situations where this will not apply, and there would be a need to come to the Board of Adjustment for a variance.

Bob made a motion to send this approval to council. Seconded by Leon. Motion carried unanimously.

3. Definition of a Through Lot/Addition to Section 151.003.

Jeff picked ten definitions from other town ordinances, and sent them to the Town of Attorney for review.

Public Hearing closed for board discussion, as there were no visitor comments.

Bob moved to send this to council. Seconded by Gene. Motion carried unanimously.

4. Amendment to Section 151.395 (J)/Common Areas Within a Multi Family Project/Supplemental District Requirements, in the Mixed Use District.

Jeff explained that currently there are no requirements for the common areas in the MUD to be turned over to a homeowners association in any Multi Family district, when a Multi Family development is final. There is a development in town now where the builder is having financial difficulty due to the downturn in the economy and the power to the common areas are being turned off, the power to the elevator and fire alarms are being turned off because the developer cannot pay the power bill. Jeff continued to say the homeowners are helpless because they have no control of the common area, although they are trying to take that over.

One change suggested by Bill was for (J) (a) to read, “common areas to the Inspection Department for approval...” instead of, “the Town for approval”.

The chairman asked for public comment. Dave Stuart spoke and said the 35 percent of entire area being developed might be a problem. Discussion ensued on this subject.

Eddie asked Jeff he could see any issues with regard to the 35%. Jeff said he does not see a problem with the project that is there right now and assuming they do the same thing in the future, they should be ok. Dave said if anything would be done differently, they would come to the Planning Board, as there is a master plan that has already been approved.

Public Hearing closed for board discussion with no further visitor comment.

Eddie recommended this for approval, and for challenges to be dealt with as they arise. The chairman entertained a motion to adopt it as written. Motion made by Leon. Eddie added with the change in section (J) (a). Seconded by Bob. Motion carried unanimously.

6. 151.218 Dimensional Requirements in the MB-2 District/Standards for Multi Family Projects

Jeff explained this is a housekeeping issue that would keep multi family projects consistent throughout the mainland business districts.

Public hearing closed for board discussion as there were no visitor comments.

Motion made by Gene. Seconded by Leon. Motion carried unanimously.

7. Zoning of Parcel # 2270003901 to Mainland Business One (MB-1)

Jeff told the board this was a proposal to zone the property on Old Georgetown Road adjacent to the Sunset Commons shopping center, for the purchase of the new Sunset Fire Station II to MB-1.

It was decided to zone it MB-1 because of the design of the building, the odd shape of the lot, and the configuration for stormwater. The current R7500 is county zoning.

Public hearing closed for board discussion with no visitor comments.

Bob asked if this was spot zoning. The chairman said it was not.

Leon mentioned some wording on the proposed site plan that said “detention pond” instead of “retention pond”. Gene asked if this was going to be annexed by the town. Jeff answered that it would be on September 14, 2009 council meeting.

The Chairman entertained a motion to approve the zoning. Moved by Leon. Seconded by Bob. Motion carried unanimously.

8. New Business

1. Section 151.213 (A) (1) Dimensional Requirements in the MB-1 District/Building Setback Requirements from Street Right of Ways.

Jeff asked the board to consider the proposed changes to MB-1, especially since there has been the same issue with the setbacks and residential abutting commercial in the BB-1 district. Eddie said it should be addressed. The board decided to carry the subject for discussion to the next work session. **No vote needed. No vote taken.**

9. Visitor Comments-None

10. Adjournment-Meeting adjourned at 10:05 am. **The Chairman entertained a motion to adjourn. Moved by Al. Seconded by Gene. Motion carried unanimously.**

Bill McDonald-Chairman

Cindy Nelson-Secretary