

Alvin's Island Shark – CUP

Staff Report: Andy Bauer
Application #: ZA21-000010

Planning Commission Meeting Date: June 22, 2021
Applicant: George Makhoulouf
Property: 100 West Beach Blvd

STAFF RECOMMENDATION: DENIAL

SUMMARY OF REQUEST

The applicant seeks Conditional Use Permit (CUP) approval to install a 17ft-long great white shark structure at Alvin's Island. Alvin's is located at 100 West Beach Boulevard. The proposed shark structure is classified as Novelty Architecture and requires CUP approval.

Novelty architecture, as defined by the Zoning Ordinance, is a type of architecture in which buildings and other structures are given unusual shapes in whole or in part as a novelty, for advertising, to draw attention to a site, for notoriety as a landmark, or simply due to the eccentricity of the owner or architect including programmatic, mimetic, and/or roadside architecture. Many examples of novelty architecture take the form of buildings that resemble the products sold inside to attract drive-by customers. Others are attractions all by themselves, such as giant animals, fruits and vegetables, or replicas of famous buildings.

The Zoning Ordinance defines a Structure as, "a house, building, deck, pool, parking lot, gazebo or other object, the whole or parts of which are arranged by human agency..."

Any use that incorporates novelty architecture must be processed through the Conditional Use Permit (CUP) process as required by Section 3-4 of the Zoning Ordinance.

Conditional Use Permits are permits that require discretionary approval from the City. These types of permits consent to a use not allowed by-right in a particular zone due to the use's possible negative impact on the surrounding area. CUP applications must demonstrate how the subject proposal is a positive improvement for the City and its residents.

EXISTING CONDITIONS AND SURROUNDING CONTEXT

Alvin's Island is located at the intersection of Gulf Shores Parkway and West Beach Boulevard. The property is zoned BT-5 Maximum Density Tourist Business District. The surrounding zoning and land uses are as follows:

- North – BT-2 Medium-High Density Tourist Business Zoning / Souvenir City
- South – BT-5 Maximum Density Tourist Business District Zoning / Gulf Place Mixed Use Building
- East – BT-5 Maximum Density Tourist Business District Zoning / Surf Style Retail Store
- West – BT-5 Maximum Density Tourist Business District Zoning / Vacant City Property – Proposed Embassy Suites

PLANNING BACKGROUND

March 23, 2021 Planning Commission Meeting

After discussion by the Commission, the applicant asked that the application be tabled. The Planning Commission tabled the application until the April 27, 2021, Planning Commission meeting.

April 27, 2021 Planning Commission Meeting

Since the March Planning Commission meeting, the applicant has modified the request from a 27ft-long shark suspended from a marine pole to a 17ft-long shark surfing in a wave. Prior to the April 27th PC meeting, the applicant indicated they needed additional time to address the items identified in the Planning Commission Staff Report, therefore, the Planning Commission deferred this item at the request of the applicant.

Envision Gulf Shores

In 2005, after Hurricane Ivan, the City of Gulf Shores undertook the Envision Gulf Shores planning process, which focused on the beach area and Gulf Place. The aim was to help the City and its residents articulate and put plans into place to realize their future. There was determination, optimism and a strong desire to rebuild the community into a special place; a place at once unique and interesting. With nearly universal agreement, the stakeholders of Gulf Shores agree that the community lacks an identifiable heart or center of activity. The zoning amendments that were adopted as a result of the Envision Gulf Shores planning process were guided by the goal of creating an integrated and identifiable heart of Gulf Shores.

Future Land Use Plan

Commercial/Mixed Use. This property is designated as "Commercial/Mixed Use" on the Future Land Use Map, and is part of the "Gulf Beach District."

The Gulf Beach District is one of five areas of development focus within the City, and is intended to function as a pedestrian scaled, mixed-use, family-friendly destination. Development in this area is intended to serve as a catalyst for economic growth and to reinforce this area as the traditional center of beach-oriented tourism. The Future Land Use Plan indicates development planning and design should serve to reinforce the design standards of the Zoning Ordinance, to assure that Gulf Place and the Beach will offer a positive image and experience to visitors and residents alike.

Vision 2025 for Sustainability

Adopted in 2014, this plan identifies five strategies, or "critical actions," to further develop the City's economy beyond the summer tourist season. One of the "critical actions" described in the plan is the further development of the Gulf Beach District into a beachfront that is pedestrian and bike-friendly, and that provides walking access to dining, shopping, and lodging uses.

Zoning

Underlying Zoning – BT-5: Maximum Density Tourist Business District. The BT-5 District is intended to implement the most intense development envisioned in the "Gulf Beach District." This zoning district permits a wide range of uses, encourages shallow buildings setbacks, and building heights up to 22 habitable stories. The BT-5 Zoning District is intended to provide suitable locations for walkable, mixed-use developments consisting of hotels, motels, condominiums, multiple-family dwellings and compatible commercial uses that provide residents and tourists with services, conveniences and amenities.

Overlay Zoning – Walking Overlay District. The Walking Overlay is intended to promote the local economy, promote the private provision of public spaces to support the nearby Gulf Place Public Beach area and improved building architecture and design. This zoning overlay establishes a development bonus program as an incentive to encourage private development of public parking spaces in support of public facilities and amenities serving users of public beaches.

Novelty Architecture Zoning Text Amendment. February 8, 2016 – The City Council adopted Ordinance 1805 which amended the Zoning Ordinance to add a definition and regulations for novelty architecture. Novelty architecture is only allowed by CUP. The CUP process requires public hearings by the Planning Commission and City Council. This process provides the City control over the location and design of proposed novelty architecture structures on a case-by-case basis.

DETAILS OF REQUEST

According to the applicant's CUP narrative, the shark is part of the recently completed full interior and exterior renovation at Alvin's. Since the March Planning Commission meeting, the applicant has modified

the request from a 27ft-long shark suspended from a marine pole to a 17ft-long shark surfing in a wave. The new proposed display will be horizontal as opposed to vertical, and the shark and wave structure will be located in an elevated dry "pool" in the pedestrian plaza out in front of the store. Similar to the original shark, the applicant believes the structure will provide photograph opportunities, increase Gulf Shores' appeal as a beach resort community, and provide a landmark tourist attraction for the enjoyment of children and families.

ANALYSIS

Article 3-4.C. of the Zoning Ordinance provides fourteen "Standards for Approval" by which CUP applications are to be reviewed. The Standards for Approval are listed below with staff's evaluation regarding the application's compliance with each standard.

1. Is the proposed site development plan in accordance with applicable requirements of this Ordinance, including that the proposed use is designated as a Conditional Use within the applicable district?
 - No
 - a. Architectural Standards. Article 16-1, F. establishes architectural standards to create continuity of development within the Beach Area. The Zoning Ordinance states that, "Individual Buildings shall be related to each other in design, massing, materials, placement and connections to provide a visually and physically integrated development." The proposed novelty architecture does not lend to a continuity of development or help integrate the development with surrounding architecture.
 - b. Sign Ordinance. The proposed novelty architecture does not comply with the Sign Ordinance. The Ordinance defines a sign as "*any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.*" The proposal would be considered a sign, and it fails to meet the following signage standards.
 - It exceeds the maximum allowable sign area. The shark and enclosure is 119 square feet. The maximum size sign allowed at the Alvin's site is 96 square feet.
 - There is also an issue with the location of the shark. The Zoning Ordinance requires detached signs to have a minimum of 300' between two signs, and the proposed shark is located about 50 feet from the existing detached sign.

A letter is attached to this staff report that was written on behalf of Alvin's Island, in response to the April 27th staff report. Doug Anderson indicates in the letter that he strongly disagrees that the proposed structure can be classified as a sign. Article 17-4 of the Zoning Ordinance outlines the process for appealing a zoning determination to the Board of Zoning Adjustment. The determination that the shark is a sign was provided to the applicant prior to the April 27th PC meeting. Alvin's Island or its representative had 30 days to appeal that determination to the Board of Adjustment, but it failed to do so. The timeframe to file an appeal has lapsed, and the determination that the proposed shark structure is a sign remains.

- c. Parking Lot Landscape Standards. Article 12-1.E. of the Zoning Ordinance requires, "parking lot islands shall be placed at the end of parking rows." "Islands shall be a minimum of 9ft wide (including curbing) and a minimum of 150sf in area." The Ordinance requires a minimum of one tree within parking lot islands and landscaping with a variety of plant materials including ground covers, shrubs,

flowering plants, and mulch. The proposed novelty architecture and associated site plan do not comply with the parking lot landscaping requirements.

2. Has the proposed site development plan received all required state and federal approvals and permits?
 - No. A Lighting Plan has not been submitted. Given the location on Beach Blvd., lighting may have to be reviewed and approved by U.S. Fish and Wildlife.
3. Is the proposed site development plan compatible with the goals and stated plans of the City and other governmental agencies for the area?
 - No. Hurricane Ivan destroyed many businesses along Beach Boulevard. Many of the remaining amusement or theme park elements that were not destroyed by Hurricane Frederic were now gone. The City developed a different Vision for its future.
 - a. Envision Gulf Shores. The regulations approved as a part of the Envision Gulf Shores planning process created a "Walking Overlay District". The Walking Overlay District regulations are based on urban design principles as opposed to suburban design. In an effort to activate the public street frontage, the Envision Gulf Shores Design regulations in Article 16 of the Zoning Ordinance encourage retail buildings to be located at the back of public sidewalks and aligned lengthwise along the primary frontage with entrances along public sidewalks and pedestrian ways. The current Alvin's Island site plan does not comply with the setback standards or Article 16 of the Zoning Ordinance, and the proposed novelty architecture will further increase the nonconformity of the overall site.
 - b. Vision 2025 Plan for Sustainability. Alvin's Island is located in the Gulf Beach District, which is one of five areas of concentration of the Vision 2025 for Sustainability Plan. The Plan promulgates, among other things, "improved visual appeal in commercial buildings and community design." The Plan encourages "new development and revitalization of existing buildings and infrastructure that will enhance sense of place and quality of life." Sharks are used to draw attention to a litany of businesses across the country. This proposal will not enhance the sense of place or quality of life for Gulf Shores or its residents.
 - c. Future Land Use Plan. The Land Use Plan illustrates and provides an overall strategy for how Gulf Shores intends to shape itself over time and serves as a comprehensive strategy to guide planning and design for land development.

One of the four major themes of the Future Land Use Plan is *IV. Maintain and Enhance Community Character and Livability*. The Land Use Plan emphasizes several policies to achieve this goal.

- Gulf Shores intends to conserve and enhance its special qualities. Maintaining and enhancing the physical qualities that make Gulf Shores an authentic place is an overarching consideration of the plan.
- *Design Gulf Shores to maximize human activity*. Human scale should be created through building mass and form, as well as scale and detail. Building locations, setbacks and orientation should frame, encourage, and enhance pedestrian comfort, as should lighting, signage and landscape design.
- *Community Appearance*. Plan, design, build and maintain gateways to the city, neighborhoods, activity centers and commercial corridors to maintain the character and unique appearance of Gulf Shores. The economy of the city is tightly linked to its physical character, and its image must be enhanced to remain sustainable.

The proposed novelty architecture does not achieve the goals established for enhancing the character of our community. The current Alvin's building and

proposed shark do not contribute to a continuity of development to create a comfortable environment for pedestrians. This proposal is not compatible with the goals and stated future plans of the City, nor does the current site comply with the architectural and design guidelines of the Walking Overlay District.

4. Does the proposed use provide economic benefits and enhance the economic vitality of the surrounding area?
 - Possibly. The proposed novelty architecture could draw additional attention to the site, causing people to stop and visit. These visits could create additional trips to surrounding businesses.
5. Would the proposed use, if granted, burden the infrastructure and street system of the City?
 - No. The proposed novelty architecture would not burden the infrastructure and street system of the City.
6. Would the proposed use diminish environmental quality of natural resources?
 - No. The proposed novelty architecture would not diminish environmental quality of natural resources.
7. Would the proposed use and site plan be compatible with surrounding uses and buildings by virtue of its massing, height, relationship to the street and architectural character?
 - No. Surrounding uses and buildings are being redeveloped with buildings located close to the street, parking behind, and with more subtle, pedestrian-oriented architecture. Surrounding properties are largely redeveloping or planning to be redeveloped in accordance with adopted plans and policies for the area.
8. Would the proposed use cause any injury to the value of other property in the vicinity?
 - No. Staff is not aware of any evidence that would suggest the proposed novelty architecture would injure property values in the area.
9. Is the proposed use so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected from any noise, vibration, odor, Glare, traffic, or other impact that may be caused by the use?
 - No. Since the shark is placed in the parking lot, gatherings around the shark could create a hazardous condition, creating pedestrian conflicts with vehicles in the parking lot.
10. Would the proposed building meet the architectural standards of the City and design guidelines?
 - No. Please see Items #1 and #3 above.
11. Is adequate landscaping and screening provided to protect neighboring properties from any visual intrusions, activities or structures that would detract from the enjoyment of neighboring property?
 - Yes.
12. Is adequate parking and loading arrangement provided? Has ingress and egress been designed to cause minimum interference with traffic on abutting streets? Is heavy traffic introduced on residential streets?
 - The proposal should not impact traffic on abutting streets.
13. Are public amenities provided on the site?
 - No.
14. Are there any other factors determined to be relevant by the Commission?
 - No.

RECOMMENDATION

The City has adopted several plans (Envision Gulf Shores, Future Land Use Plan, and Vision 2025 for Sustainability) to transform this area of the City into a walkable, energetic beachfront district that will attract tourism, stimulate local business, and encourage business and residential relocation. Each of the plans support the development of the beach area into an authentic identifiable heart of the City, allow shallow building setbacks to create buildings that frame and enhance pedestrian circulation, and promote visual appeal in commercial buildings and community design. The goal of the plans is to create a sense of place unique to Gulf Shores.

The location of the proposed shark, near the intersection of Gulf Shores Parkway and Beach Boulevard, is the city's traditional center of beach-oriented tourism and its primary image in the minds of many visitors. It is imperative that development design should serve to reinforce the design standards and

expectations of the City, to assure that Gulf Place and the Beach will offer a positive image and experience to visitors and residents alike. New development, especially in activity centers and at major gateways is intended to enhance the image of Gulf Shores. Novelty Architecture is only permitted as a conditional use, because it tends to detract from the qualities of a particular area.

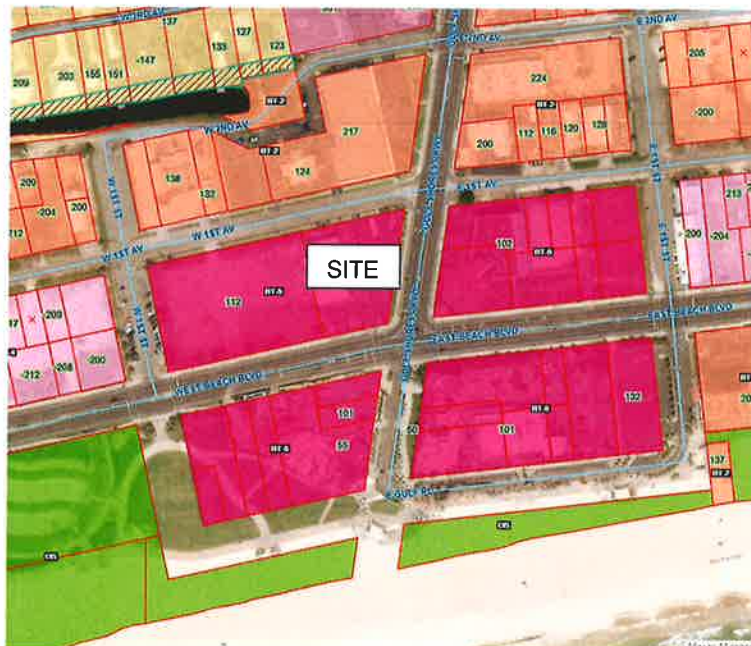
Novelty architecture, by definition, is a type of architecture in which buildings or structures are given unusual shapes to draw attention to themselves without any intention of being authentic. An overarching goal of the City's adopted plans and regulations is to improve the design and visual appearance of buildings, create a walking district by virtue of the placement, massing, and orientation of buildings, and the creation of an authentic sense of place in the Gulf Beach District.

The City of Gulf Shores has a Zoning District that allows more decorative and theme-oriented signage; the Amusement Theme Park (ATP) District. This district permits customary uses along with decorative structures, signs, pennants, and other devices that are appropriate to identify themes and provide a feeling of pageantry. The shark structure, because of its thematic design, is not appropriate in the BT-5 zoning district at the main intersection of Gulf Shores. The ATP Zoning District would be a more appropriate district for what is currently being proposed.

Staff recommends denial of the CUP application for Alvin's Island novelty architecture.

Attachments: New Plans, Alvin's Attorney Letter, Draft Resolution

Alvin's Island –Location Map



RESOLUTION ZA21-000010
Alvin's Island Shark Novelty Architecture Structure
Conditional Use Permit (CUP)

Be it resolved by the Gulf Shores Planning Commission while in regular session on April 27, 2021, and by a vote of ?-?, hereby (approves, approves subject special conditions, denies) the Alvin's Island Shark Novelty Architecture Structure based on the following Standards for Approval:

1. The proposed site development plan is in accordance with applicable requirements of this Ordinance, including that the proposed use is designated as a Conditional Use within the Applicable District;
2. The development plan is in the process of receiving all required state and federal approvals and permits;
3. The proposed site development plan is compatible with the goals and stated plans of the City and other governmental agencies for the area, as applicable;
4. The proposed use provides economic benefits and enhances the economic vitality of the surrounding area;
5. The proposed use, if granted, will not burden the infrastructure and street system of the City;
6. The proposed use will not diminish environmental quality of natural resources;
7. The proposed use and Site Plan is compatible with surrounding uses and buildings by virtue of its massing, height, relationship to the street, and architectural character;
8. The use will not cause any injury to the value of other property in the vicinity;
9. The use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected from any noise, vibration, odor, glare, traffic, or other impact that may be caused by the use;
10. Adequate landscaping and screening is provided to protect neighboring properties from any visual intrusions, activities or structures that would detract from the enjoyment of neighboring property;
11. Adequate parking and loading arrangement, is so designed as to cause minimum interference with traffic on abutting streets, and that heavy traffic is not introduced on residential streets;

Be advised that before any construction activities can commence on the property, City permits must be issued prior to any construction or demolition commencing on the site. A building permit must be obtained within one year of the date of this Resolution or the CUP will become null and void.

This resolution shall become effective upon its adoption.

ADOPTED this 27th day of April, 2021.

Robert Steiskal, Jr.
Chairman, Planning Commission

Attest:

Mell Davis
Secretary, Planning Commission