

**MINUTES OF THE REGULAR MEETING  
OF THE TOWN COUNCIL  
TOWN OF CAROLINA BEACH**

**March 8, 2005**

The Town Council of the Town of Carolina Beach met in regular session on March 8, 2005 at 7:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor, Dennis Barbour; Mayor Pro Tem, Pat Efird; Councilman, Joel Macon; Councilman, Gary Doetsch and Councilman, Jack Lynch. Also present was Deputy Town Clerk, Deborah J. McCabe. Town Manager, Calvin R. Peck, Jr. and Town Clerk, Lynn N. Prusa were not present.

Councilman Lynch led everyone in the invocation and pledge of allegiance. Immediately following, Mayor Barbour called the meeting to order.

***ADOPT THE AGENDA***

A motion was made by Mayor Barbour to adopt the agenda with the following changes:

**DELETE Item # 13**

Consider Approval of a Contract for Monitoring and Relocation of Sea Turtle Nests for 2005 Sea Turtle Nesting Season in Carolina Beach to Include Freeman Park.

**REPLACE Item #13**

Consider approving an offer to purchase and contract for property described as Lots 14 & 15, Block 135, 815 Cape Fear Blvd. in the amount of \$225,000.

Consider approving Ordinance No. 05-581, amending the 2004-2005 General Fund Budget in the amount of \$227,000 for the purchase of the property including an extra \$2,000 to cover closing costs, etc.

**MOTION CARRIED UNANIMOUSLY.**

***RECOGNIZE CITIZEN OF THE QUARTER***

Mayor Pro Tem Efird recognized Jerry Bigley as "Citizen of the Quarter" and presented him with Resolution No. 05-816 for his civic involvement and leadership to the Town of Carolina Beach (Exhibit 1).

***RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE***

Mayor Pro Tem Efird recognized Sheila Trott, Administrative Support Specialist in the Operations Department, for 20 years of dedicated service to the Town of Carolina Beach. Ms. Trott was not

present at the meeting; however, she will be recognized again at the April Council meeting to accept her Certificate of Achievement.

Mayor Pro Tem Efirid recognized Burt Womble, Police Sergeant for the Police Department, for 10 years of dedicated service to the Town of Carolina Beach.

### **RECOGNIZE NEW EMPLOYEES**

Harry Oakes, Assistant Operations Director, introduced Mr. Keith M. Wise, Plant Maintenance Worker, as a new employee in the Operations Department. Council welcomed him to the Town of Carolina Beach.

### **PUBLIC DISCUSSION**

Mr. Bobby McConville, a resident of 110 Sugar Leaf Court, is concerned about some houses starting to be built in Carolina Beach Village because of drainage issues. Mr. McConville said that there are 5 lots that are going to be built on. However, as he understands it, if someone wants to build on the remaining 7-8 lots, they have to go ahead and address the drainage. Mr. McConville does not feel that this makes sense so he asked that Council direct someone to look into the building permits before they are issued. Mr. McConville suggested that the Storm Water Department or Planning and Zoning Commission review it. He felt that the people buying those lots might not realize at first what they are getting, and then get a lot more than they think, when water surrounds their property and affects some of the other properties in the area.

Mayor Barbour told him that we would be sure that our storm water department takes a look at it.

Harry Oakes, Assistant Operations Director, suggested that Mr. McConville call the Operations Department. Mr. Oakes said that he is familiar with the history of some of that area that others in the department might not be and told Mr. McConville to contact him.

### **CONSENT AGENDA**

Mayor Barbour made a motion to approve the consent agenda as follows:

Approval of the Minutes:

Regular Meeting                      February 8, 2005

Set a public hearing date for April 12, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit for a single family/office located at 207 Hamlet Avenue (Lot 15 Fayetteville Ave.)

Set a public hearing date for April 12, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit for a Multi-Building, Multi-Unit Retail Center located at 1136 N. Lake Park Blvd.

Set a public hearing date for April 12, 2005 at 7:30 p.m. or soon thereafter to consider a request for Conditional Use Permit at 911 N. Lake Park Blvd. for a conference room addition at Bowman's Seafood Restaurant.

Set a public hearing date for April 12, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit at 8 Pavilion, Unit 3 for a Sandwich Shop.

Set a public hearing date for April 12, 2005 at 7:30 p.m. or soon thereafter to consider a request to rezone property located at 181 Dow Road from Conservation to I-1 (Industrial).

Consider Request for Budget Transfers and Amendments:

### **Amendment-Operations**

The Operations Department has had several vehicles which have had damages for which we have received insurance monies, it is necessary to appropriate the insurance monies to account 103860.00-Insurance Claims in the amount of \$2647.47 and increase account 105650.17-Fleet Maintenance & Repair to Vehicles in the same amount. This is an amendment to the budget and requires Council's approval.

### **Transfer-Parks and Recreation**

The Parks and Recreation Department needs to replace a treadmill which is beyond repair. The cost for the new treadmill will be \$2140. The request is to transfer monies from account 106200.55-Programs into account 106200.75-Capital Projects less than \$10,000 in the amount of \$2140 for the purchase of the treadmill. This is a transfer and requires that the finance director notify Council.

Adopt Ordinance No. 05-579 to consider amending the General Fund Budget 2004-2005 to include shortage in funds for gas purchases (Exhibit 3).

Set a public hearing date for April 12, 2005 at 7:30 p.m. or soon thereafter to consider an amendment to Chapter 15 Streets and Sidewalks, to add Article VII Specifications for Sidewalks, Curb and Gutters.

Adopt Resolution No. 05-815 to consider approving terms of modifying Vehicle and Equipment Loan 003-0302200-21 that was approved November 2, 2004 (Exhibit 2).

### **MOTION CARRIED UNANIMOUSLY.**

Before moving on to the public hearings, Mayor Barbour announced that he received a call from Representative Mike McIntyre that Carolina Beach has secured \$370,000 toward shallow draft inlet maintenance for Carolina Beach inlet. With these funds, Mayor Barbour advised that Carolina Beach will be dredged twice between now and October 2005. Mayor Barbour explained that this is not winning the war because we still have to fight to get funding for next year, but it this will get us through this year with a maintained, buoyed and safe Carolina Beach inlet.

**PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AT 310 & 313 CANAL DRIVE AND 309 CAROLINA BEACH AVENUE NORTH FOR A MIXED USE DEVELOPMENT FROM THE ARCADIA GROUP**

Prior to Council considering this request for a Conditional Use Permit, Councilman Lynch asked to be excused from voting. Councilman Lynch explained that after the Arcadia Conditional Use Permit project was approved back in October 2004, Arcadia approached his wife to do some design work for their company. He added that his wife has been in the interior design business for 25 years. In December 2004, there was an agreement reached for his wife to do some minor consulting for their company on the interior design. Councilman Lynch further advised that his wife has her own company, and he does not own any part of that company. He also does not receive any proceeds from her company and wanted this to be clearly understood.

A motion was made by Mayor Barbour to excuse Councilman Lynch from voting on Item #10 to consider a request for a Conditional Use Permit at 310 & 313 Canal Drive and 309 Carolina Beach Avenue North for a mixed use development from the Arcadia Group. **MOTION CARRIED UNANIMOUSLY.**

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the deputy town clerk. Mr. Chase reviewed with Council the proposed Conditional Use Permit as follows:

The applicant is The Arcadia Group, NC.

**BACKGROUND/HISTORY:**

The applicant is proposing to construct (1) approximately 23,485 sq. ft. structure to include 16 residential units and 1 retail unit and 1 restaurant (ground floor) (Mixed Use Development) at 313 Canal Drive (Existing Harbor Masters Site). The project is located in the Central Business Zoning District (CBD) and is being proposed under mixed-use development. The project will include ground floor retail and restaurant and sixteen (16) 2-bedroom residential units above (4 per floor). Height, Density, Setbacks, and landscaping in the Central Business District are examined through Conditional Use Permit review. The applicant's proposed structure will exceed the 50' recommended height requirement. **The applicant states in their narrative they have provided, by the site's existing conditions, the one foot swap for setback for one foot of additional height over 35'. The applicant is requesting from the Town of Carolina Beach 14 spaces from Town Parking. Any request for Town Parking will have to be recommended by the Planning and Zoning Commission for either approval or denial and formally approved by Town Council.** The parcels are located within the 100-year floodplain and will be required to have elevated living space and commercial space or commercial space on the ground floor may be flood proofed. The property is also located within a CAMA Area of Environmental Concern.

**ANALYSIS:**

Maximum lot coverage within the Central Business District is 100%; the footprint of the structure is approximately 4,697 sq. ft, which maintains the existing footprint and is of the allowable square footage. Density of units allowed under the Central Business District zoning is examined through review of a Conditional Use Permit and the applicant is proposing in this case 16 residential units, 1-retail unit and 1 restaurant. The proposed structure will be 60 feet in height. Setbacks in the Central Business District are 0' (side), 0' (front), and 0' (rear). The applicant's structure is setback 40' facing Canal Drive and 15' from the property to the north. The applicant is providing for 53 parking spaces that will be located in the Harbor Masters on site lot and Harbor Masters off-site lot. Parking will be

broken down in the parking analysis during each phase of construction for the Arcadius Project. The applicant is requesting parking from the Town of Carolina Beach and will have to be recommended by the Planning and Zoning Commission for either approval or denial and formally approved or denied by Town Council. The applicant is providing for street trees and sidewalks consistent with the Town's recently approved landscape ordinance.

## **PARKING ANALYSIS:**

### **CURRENT SITE WITHOUT ARCADIUS DEVELOPMENT-**

75-seat restaurant requires 1 parking space/3 seats = 25 spaces required

2,000 sq. ft. retail requires 5 parking spaces/1,000 sf = 10 spaces required

16 residential units (2 bedrooms each) = 32 spaces required

**TOTAL SPACES REQUIRED: 67 SPACES**

The applicant is providing for 19 on site parking spaces (Existing Harbor Masters Site)

34 spaces at the existing Harbor Masters off-site lot

Applicant is requesting from the Town of Carolina Beach = 14 spaces

**TOTAL SPACES PROVIDED: 67 SPACES** (See attached Site Plan & Applicant's Narrative).

### **PHASE 1 CONSTRUCTION OF THE PARKING DECK-**

The applicant will be requesting 48 spaces during construction of the parking deck for the Arcadius Project. The applicant has included parking details in their narrative and on the site plan illustrating proposed parking during different phases of construction. (See attached Site Plan & Applicant's Narrative).

### **POST CONSTRUCTION OF PHASE I PARKING DECK-**

**The applicant proposes complete satisfaction of the parking requirements in the Phase I Parking Deck of Arcadius.** (See attached Site Plan & Applicant's Narrative).

## **REQUIRED FINDINGS:**

***Specific standards. Applicant must make provisions for:***

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

### **General conditions.**

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies

### **STAFF RECOMMENDATIONS:**

**The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspection. Mixed Use Development proposals are allowed with the approval of a Conditional Use Permit in Central Business District zoned properties. Staff recommends the following conditions if the proposal is to be approved:**

1. The stormwater plan must be submitted prior to issuance of a building permit. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit. The drainage system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
4. Approval from the Division of Water Quality for a CAMA Permit.
5. Approval Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.
6. Grease trap will have to be approved by the Town of Carolina Beach prior to Certificate of Occupancy for restaurant use.
7. Seating for the restaurant use shall be limited to 75 seats.
8. Hours of operation and number of employees must be provided prior to issuance of Certificate of Occupancy.
9. Alcohol sales must not comprise more than 49% of total sales (based on ABC and tax records) in the restaurant.
10. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
11. Flood Certification must be presented prior to issuance of certificate of occupancy.
12. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. **"Where properties are located within the CBD, parking requirements may be waived if public parking spaces adequate to meet the requirement are located within 500 feet of the use." The requested spaces must be recommended for approval or denial by the Planning and Zoning Commission and must be approved by Town Council.**
13. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.

14. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
15. Refuse collection agency that will be used must be included on final site plan. The refuse collection site must be enclosed on all four sides and remain closed and secured during inactivity.
16. All structures must be designed to meet NFPA approved Fire Sprinkler systems and meet minimum NC Fire Prevention Code. Approval letter must be submitted prior to Certificate of Occupancy.
17. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
18. A sign permit must be obtained for any new signs located on the property.
19. Maintenance of parking, streets, drainage systems, utilities, and other such facilities- All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
  - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
  - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the mixed use development for the purpose of ensuring maintenance of common facilities.
  - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
20. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
21. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
22. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
23. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.

**The Planning and Zoning Commission heard this proposal at its February 10, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission recommended approval by 3-1 vote of the request subject to the required findings and staff conditions above and the following additional conditions or changes:**

- 1. Exterior lighting should be shielded on the building.**
- 2. A bond be secured to insure parking requirements are met if building F is never built.**
- 3. Landscaping at the exit on the south end will not impede the line of vision for people exiting the parking lot.**

**4. The Planning and Zoning Commission recommended approval for the 14 spaces from the Town's Parking prior to Arcadius Construction and 48 spaces during construction of Arcadius.**

After Mr. Chase made his presentation concerning the proposed Conditional Use Permit, Councilman Doetsch asked when we figure parking spaces for this, does it include the retail space? Mr. Chase advised that the 14 spaces will be used for commercial spaces only. They are going to provide onsite for residential, except during construction of the parking deck because then the only parking deck they will have will be on the Harbor Master's site. Mr. Chase continued by saying that during the construction phase, they are actually going to be asking for parking during construction of that deck.

Councilman Doetsch said that if the 14 spaces are generally going to help with the retail portion of it then he is more comfortable with it than if it was for the homeowners.

After discussion among Council and staff, Mayor Barbour made a motion to open the public hearing.  
**MOTION CARRIED UNANIMOUSLY.**

Prior to speaking, Mr. Scott Patton, resident of 917 Carolina Beach Avenue North and representative for the Arcadia Group, was sworn in by the deputy town clerk. Mr. Patton pointed out that with this proposed project, the Arcadia Group and the Williams' family are giving back to the town: road improvements; water pipe improvements; transient boat slips; green spaces including onsite and surrounding parking lots; renovation of Harbor Master's site; and storm water compliance. Mr. Patton feels that this is another step toward revitalizing the heart of the town and that it will be a place for family and citizens to enjoy.

Prior to speaking, Mr. Jonathan Wolk, with Centrepont Architecture, was sworn in by the deputy town clerk. Mr. Wolk opened his presentation by saying that he would like to view the site plans with Council. Mr. Wolk mentioned that they are providing onsite storm water, landscaping and (5) transient boat slips. Mr. Wolk said that (4) of the boat slips will be on the marina side and the other one is a town boat slip that they will dredge in conjunction with the reconstruction of the bulkhead. Mr. Wolk further stated that there is about 2,000 square feet of retail space on the ground floor, 75-foot of restaurant and 16 residential units above it. Mr. Wolk also showed Council an illustration of the setback per the current Zoning Ordinance that shows the 40-foot setback. With the 35-foot height in the current Zoning Ordinance, Mr. Wolk said that they could actually take that building up to 75 feet maximum height. However, they are proposing a maximum of a 60-foot building height. For parking, Mr. Wolk further pointed out that they actually have two town lots within a 500-foot distance and those 14 spaces would only be used for commercial use. During Phase II, he explained that they would have 48 spaces that they would use temporarily while the parking deck for the Arcadius project is built. Mr. Wolk thinks it is anticipated to be about a 16-month timeframe so it would be a limited use of the town lot. Mr. Wolk also showed Council a picture of the completion of the proposed project and how there would be no utilization of town parking. Further, Mr. Wolk displayed an overall breakdown of the project in looking at the Fisherman's lot and Marina lot that are within the 500-foot distance. He reported that this breakdown was compiled by using data from Central Parking Systems. Mr. Wolk specified that this data is using peak periods, which indicates that there is ample parking at the time we would be using the 48 spaces and it would not be detrimental to the parking demand for the town. Lastly, Mr. Wolk viewed with Council the elevation of the project within the Central Business District. He mentioned that the commercial retail is on the ground floor with the restaurant and the housing units located above it with balconies that overlook the marina.

Mr. Patton readdressed Council and concluded that he hopes Council weighs the pluses and minuses of the project. Mr. Patton understands that the parking spaces is the one thing that they see as a deficit, but asked Council to consider also what the project brings to the Central Business District in terms of the green spaces, storm water, transient boat slips dedicated to the town, etc.

Prior to speaking, Mr. Lonnie Lashley, a resident of 102 Florida Avenue, was sworn in by the deputy town clerk. Mr. Lashley asked if this project protrudes into the canal with the construction of this project? He also asked if we are going beyond 50-feet to construct this? Mr. Chase, Planning & Development Director, advised him no and that the existing footprint would remain. Mr. Lashley also asked if we are going into the canal to do anything with this project? Councilman Doetsch told him only for the transient slips. Mr. Lashley asked how far? Mr. Chase responded that you cannot exceed the pier head line. Mr. Lashley wanted to know if it would cause any problems for the big ships. Mr. Chase replied, no.

Prior to speaking, Mr. Leroy Franks, a resident of 908 Carolina Beach Avenue North, was sworn in by the deputy town clerk. Mr. Franks mentioned that the Harbor Master's only has 20 parking spaces in the lot now. In reference to the Arcadia Group, Mr. Franks asked if they construct the lot at the corner of Winner Avenue and Canal Drive for a parking deck to support the rest of their projects, how many total spaces would they need? Mr. Franks understands that the town is saying 1,007 and they are saying 1,284 and he wanted to know the truth.

Mayor Barbour said that he was not sure he was following him.

Mr. Franks continued that the truth is; there is a difference in the numbers. Mr. Frank feels that somebody needs to look at the numbers and paperwork that has been submitted to make sure that everything matches. Mr. Franks is not in favor of the project because it does not add anything to the beach. Mr. Franks commented that he thinks it is fine for somebody to show a picture of a nice steak, but that does not mean that the steak will taste like it looks.

Prior to speaking, Mr. Jerry Johnson, a resident of 907 Canal Drive, was sworn in by the deputy town clerk. Mr. Johnson said that he was speaking tonight as a concerned citizen and not on behalf of the Planning and Zoning Commission. Mr. Johnson clarified that one of the reasons he voted against this project at the time was because of what we were going through with the Land Use Plan and the amendments to the 1997 Land Use Plan and those not being approved at this time. Mr. Johnson did not feel that the current project meets the front and side setbacks. He said that they meet the front, but not the side setback to go to 60 feet. In the meeting at that time; however, Mr. Johnson addressed that it did meet the setbacks to go to 50 feet.

In addition, Mr. Johnson questioned the 14 parking spaces. He felt it was a little confusing and went back and did more research since the first time it came before the Planning and Zoning Commission in February. At which time, Mr. Johnson said that according to their minutes it states that if Arcadius is not built, which is Building F and it is suppose to hold the 48 parking spaces that they require to meet their total of 67 with the 19 onsite, and that if it is not built, they will need 14 spaces from the town to satisfy the parking requirement for the project. Mr. Johnson hoped that was not correct because in the original meeting Mr. Wolk stated that if Building F was not built that parking would all be provided on what is called the "Canal Lots" across the street from the Harbor Master now. Mr. Johnson directed his question to Mr. Wolk or Mr. Patton if Arcadius is not built, are they going to be able to handle the other 48 spaces on their existing lots and property that they own without asking the town for parking?

Mayor Barbour informed Mr. Johnson that it is not customary for us to allow cross examination of the submitter at our public hearing. Mayor Barbour explained that if they wish to readdress Council after all other public has spoken, we will allow it. Mr. Johnson asked Council to make sure that they are clear whether or not the town is going to have to provide them 14 spaces if they don't build Arcadius, or whether they are going to be able to provide their parking as they originally stated back in January when they first came before Planning and Zoning Commission.

Mr. Patton readdressed Council concerning Mr. Johnson's comments. Mr. Patton said that the whole reason they went back to the Planning and Zoning Commission was because of the discrepancy with the 14 spaces, and that was when we said that about the Arcadius project if it was not to be completed. Mr. Patton explained that at the time, we were in negotiations with a possible lease with an additional lot that was across the street and that is why that statement was made. Mr. Patton further explained that when that lease was not addressed, we then made the choice to go back because of the changes with the parking under the guidelines from Scott Chase, Planning & Development Director. Because of the significant change in the project, Mr. Patton said that we went back and did the right thing. We went back through the Planning and Zoning Commission to address the 14 spaces. Mr. Patton referenced that the 14 spaces are within 500 feet and will be used for retail only, which is within the ordinance that allows for those 14 spaces. At the time, the information that we had in reference to the lease that we were under negotiations with, Mr. Patton expressed that we would have had all the parking even if Arcadius would not have been completed as the other project.

Prior to speaking, Mr. Bob Meyers, a resident of 1401 Canal Drive, was sworn in by the deputy town clerk. Mr. Meyers said that he is concerned about the 14 spaces and that the Arcadius project is held up in major litigation. Mr. Meyers feels that the approval of this in its present form would be approving something that is not here as yet. Mr. Meyers said that to provide public land of 14 spaces is something that needs to be looked at very carefully to the perspective of the statutes of the State of North Carolina giving up public property. Mr. Meyers urged Council to look into that very carefully.

Mr. Patton readdressed Council concerning Mr. Meyer's comments. Mr. Patton stated that Mr. Meyers was incorrect in his statement that this project is held up by any type of litigation at all. He said that we have no injunction on us and the project is moving forward as planned. Mr. Patton also advised that the storm water permit was actually issued today. In reference to Mr. Meyer's concern about the 14 spaces, Mr. Patton explained that this project is designed if the Arcadius project does not go through or does not proceed as planned and that this is a project that stands on its own. Mr. Patton reiterated that the 14 spaces are for commercial as allowed within the ordinance of 500 feet of that commercial space.

Mr. Johnson readdressed Council concerning Mr. Patton's comments and questioned why they cannot provide for their own parking and why they even need the 14 spaces if the Arcadius project is never built. Mr. Johnson does not understand why they need 14 spaces from the town when they have their own property to make their own parking so if it requires an elevated deck, they can use their own property. Mr. Johnson wishes that the town would stop giving up parking spaces.

There being no further public comments, Councilman Doetsch made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Macon said that if he is not mistaken, the Central Business District allows property there to be waived if adequate parking is located within the area within 500 feet. Councilman Macon briefly

addressed some of Mr. Johnson's comments. Councilman Macon first questioned that if you develop a parcel at the Boardwalk, where are they going to park and provide parking? Councilman Macon explained that it has to be fair across the board and the whole point of the Central Business District is the allowances because not everybody has parking or the room to put in parking.

Councilman Doetsch mentioned that we have done this before with the proposed restaurant for Missy's Market when they only had 5 parking spaces in the front of it. Councilman Macon also commented about there not being any parking for the Hula Grille too.

Councilman Doetsch thinks we need to think out-of-box because if you look at redevelopment of that area, some things may take different twists and turns than what we are use to seeing there. He does not have a problem with it as long as it is to support the retail portion of that project.

Councilman Macon also mentioned that we have businesses that pay a year-round parking rate to have dedicated parking spaces so he does not see the issue.

In conclusion of the discussion among Council, Councilman Doetsch made a motion to approve the Conditional Use Permit for the Harbor Master's/Arcadia project including the required findings of the specific standards 1-7; the general conditions 1-4; the staff recommendations 1-23; and the Planning and Zoning Commission's recommendations 1-4 as described herein. **MOTION CARRIED UNANIMOUSLY.**

***PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AT 105 DOW ROAD, SEASIDE CHAPEL CHURCH, FOR AN EDUCATIONAL BUILDING***

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the deputy town clerk. Mr. Chase reviewed with Council the proposed Conditional Use Permit as follows:

The applicant is Seaside Chapel.

**BACKGROUND:**

The applicant proposes to construct a 50' x 100' worship center with an attached breezeway to the existing chapel. The site currently has a chapel, activities building, and former parsonage on site. Churches are permitted with an approved conditional use permit in the R-3 zoning district. The worship center will contain a fellowship hall, classrooms, bathrooms, and a kitchen.

**ANALYSIS:**

Maximum lot coverage for the site is 40%, which includes footprint of the building, decks, and steps. The total allowable square footage is 44,500 sq ft. The current lot coverage is 6,915 sq ft. The proposed worship center at 5,000 sq ft brings the total coverage to 11,915 sq ft. The applicant's structure will be 31.5' in height. The lot has frontage on Hamlet Ave, Charlotte Ave, Eighth St. and Dow Rd. The applicant's proposed structure is within the required setbacks and at least 15 feet from any other building. The applicant is required to provide 86 additional improved parking spaces based on 1 per 200 sq. ft. + 1 per every 4 persons accommodated by the facility at maximum capacity. The fire marshal has determined that the structure capacity is 192 persons. The applicant is providing 86 additional parking spaces (See Attached Site Plan). Landscaping will have to be provided on all

street boundaries of the new parking lot and 8% interior of the parking lot. Side walks and curb and gutter will run along Charlotte to Eighth St to Hamlet Ave. (See attached Site Plan). The applicant is proposing stormwater to be drained to existing catch basin on site.

## **REQUIRED FINDINGS:**

*Specific standards. Applicant must make provisions for.*

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

*General conditions.*

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies

## **STAFF RECOMMENDATIONS:**

**The proposal as presented has not received any negative comments from Stormwater/Operations, Inspections and Fire. Churches are allowed with the approval of a Conditional Use Permit in the R-3 zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:**

1. The stormwater plan must be submitted prior to issuance of a building permit. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit. The drainage system must be installed according to approved plans and a letter signed and

- sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
  4. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
  5. All structures shall be limited to 50' in height.
  6. Final project must be designed to provide the required 86 parking spaces.
  7. Sidewalks must be at least 5' in width and curb and gutter must be provided as proposed on site plan.
  8. All structures must provide for at least 15' in structure separation.
  9. Structure must be constructed to meet minimum fire code.
  10. Structure must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties.
  11. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
  12. Landscaping must be provided around proposed parking area. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
  13. Indicate on plan frequency of refuse collection and agency to be used and adequate access must be provided to the dumpster site. All dumpsters must be enclosed on all four sides and properly screened with landscaping.
  14. Maintenance of permanent open space, parking, streets, drainage systems, utilities, and other such facilities-  
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
    - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
    - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the site for the purpose of ensuring maintenance of common facilities.
  15. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
  16. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
  17. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
  18. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.

**The Planning and Zoning Commission heard this proposal at its February 10, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends**

approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

**\*\*PLEASE NOTE- Article 7 Parking design and construction.**

***a. Required surfacing. All parking facilities shall provide a paved surface of concrete or asphalt material. Concrete pavers, brick, "turfstone", or similar material may be used if determined to exhibit equivalent wear resistance and load-bearing characteristics as asphalt or concrete and acceptable to the Public Works Director.***

- 1. Eliminate sidewalk requirement (Item 7).**
- 2. Reconsideration of stormwater and the requirement for the allowance of an impervious parking lot\*\*.**

Mr. Chase continued by saying that Article 7 in the Zoning Ordinance says that we have to require paved surfaces so we cannot really waiver from that requirement. The Seaside Chapel also has the option prior to getting the certificate of occupancy, and they can actually bond for the pavement. He said that this could delay it until we make changes to the Zoning Ordinance. Mr. Chase thinks that by the time they are ready for the certificate of occupancy we might have those changes in place to allow them to have a pervious surface.

Councilman Doetsch stressed that he wants to make sure that the applicant understands this in case we do not change the ordinance so they know what they would be required to do. Mr. Chase told him that the applicant is here tonight to address any questions, but he believes they are clear with it.

Councilman Lynch inquired about the process if Council does change the ordinance. He asked if the applicant needs to come back to Council to free them from having to provide an impervious parking lot. Mr. Chase felt that it would be as simple as coming back to Council and getting that waived by holding another hearing for a modification. Al Clyburn, Town Attorney also agreed with Mr. Chase.

After discussion among Council and staff, a motion was made by Mayor Barbour to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Prior to speaking, George Pinkston, with Pinkston Drafting Company, was sworn in by the deputy town clerk. Mr. Pinkston advised that he has been hired by Seaside Chapel for architectural services. Mr. Pinkston feels that all the issues have been addressed clearly in the meetings they have had as a group. He understands what it is to be decided concerning the parking lot. He strongly requests that Council consider it so they do not have to do sidewalks, curb and gutter because there is a storm water issue in this area. Mr. Pinkston added that they only use this facility twice a week for this parking requirement and he is here tonight to address any questions about the development of the project.

There being no further public comments, Mayor Pro Tem Efird made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Lynch commented that he hopes they can come back prior to getting their certificate of occupancy and we come up with some solutions for the impervious and pervious surfaces. He has looked into some websites today that other towns are using for new pervious surfaces. Councilman Lynch feels that it would certainly apply in this case. He understands that we cannot do it tonight because of the Zoning Ordinance, but he hopes that before they get their certificate of occupancy that we can have them come back before us.

Mayor Barbour also commented that at our last workshop meeting we had a joint meeting with the Planning and Zoning Commission to discuss pervious and impervious surfaces for parking lots, as well as, the Lighting Ordinance. At that meeting, Mayor Barbour said that we sent it back to the Planning and Zoning Commission to look at changes to our Zoning Ordinance to allow parking on pervious surface areas. He stated that it is in the works, but we cannot just go against an ordinance. He also said that Council and the Planning and Zoning Commission agreed that we need to look at it and offer some alternatives.

Councilman Lynch further mentioned to Mr. Pinkston that the Planning and Zoning Commission recommended that the sidewalks be out.

Councilman Doetsch made a motion to approve the Conditional Use Permit for the project subject to the specific standards 1-7; the general conditions 1-4; the staff recommendations 1-18, and the Planning and Zoning Commission's recommendation 1-2 as described herein. **MOTION CARRIED UNANIMOUSLY.**

***PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AT 400 CANAL DRIVE FOR A TRIPLEX***

Scott Chase, Planning & Development Director, informed Council that the applicant has withdrew their request.

***NEW BUSINESS - CONSIDER APPROVING AN OFFER TO PURCHASE AND CONTRACT FOR PROPERTY DESCRIBED AS LOTS 14 & 15, BLOCK 135, 815 CAPE FEAR BLVD. IN THE AMOUNT OF \$225,000***

Brian Roberts, Fire Chief, said that this is a request to consider approving an offer to purchase and contract for property at 815 Cape Fear Blvd. in addition to an amendment to the General Fund budget. Chief Roberts advised that he and the town manager have been in negotiations with the property owners and we have a contract in hand to purchase the property that is located adjacent to the Carolina Beach Fire Department.

Mayor Barbour mentioned that this is something that the town has wanted to do for years and this was an opportunity that came up. Mayor Barbour explained that we are landlocked with our current fire department because they have parking problems and no ability to expand so this was an opportunity to purchase the adjacent lots to the north of the current fire department, which will double the size.

Mr. Roberts also informed Council that this would give us the entire block from Cape Fear Blvd. to Charlotte Avenue and allow for future expansion or parking. Chief Roberts also stated that we have started looking at this property with the possibility that the Department of Transportation might be widening Dow Road in the future and he felt it was a great opportunity for the town to take advantage of acquiring this piece of property.

Councilman Macon pointed out that we tried to buy this property about 2-3 years for about \$120,000. Mayor Barbour mentioned that it was not because we did not want to buy it at that time, but it did not appraise for what they were asking for it. This time, it appraised for more than what they were asking.

After a brief discussion among Council, Mayor Barbour made a motion to approve an offer to purchase and contract for property described as Lots 14 & 15, Block 135, 815 Cape Fear Blvd. in the amount of \$225,000. **MOTION CARRIED UNANIMOUSLY.**

***NEW BUSINESS - CONSIDER APPROVING ORDINANCE NO. 05-581, AMENDING THE 2004-2005 GENERAL FUND BUDGET IN THE AMOUNT OF \$227,000 FOR THE PURCHASE OF THE PROPERTY INCLUDING AN EXTRA \$2,000 TO COVER CLOSING COSTS, ETC.***

Concerning the offer to purchase contract approval of Council for the property described as Lots 14 & 15, Block 135, 815 Cape Fear Blvd., in the amount of \$225,000, Mayor Barbour also made a motion to adopt Ordinance No. 05-581, amending the 2004-2005 General Fund budget in the amount of \$227,000 for the purchase of the property including an extra \$2,000 to cover closing costs, etc. (Exhibit 4) **MOTION CARRIED UNANIMOUSLY.**

***ITEMS NOT ON THE AGENDA***

Brian Roberts, Fire Chief, reminded Council about the county commissioners meeting on Monday, March 14, 2005 at 2:00 p.m. concerning the 800 MHZ funding. Chief Roberts advised that we will have a representative from the police and fire department at the meeting. Councilman Lynch informed Council and staff that he would be attending the meeting as well.

Harry Oakes, Assistant Operations Director, informed Council that it is this time of year to notice bids for sand debris, vegetation removal, as well as, bids for concrete and paving repairs. As far as the sand debris and vegetation removal bids, Mr. Oakes said that we will be advertising starting this weekend and every weekend up to March 31, 2005 at 1:00 p.m., which will be the cutoff date. Mr. Oakes also advised that we will encourage a pre-conference on March 23, 2005 at 1:00 p.m. here at Town Hall to discuss any issues or specifications. As far as the asphalt and repair contracts, Mr. Oakes said that we will be accepting bids up to 2:00 p.m. on March 31, 2005. Mr. Oakes advised that both these items will be tabulated and presented to Council at the April 8, 2005 Council meeting for their approval.

On behalf of Ted Lashley, Parks and Recreation Director, Valita Quattlebaum, Public Information Officer, informed Council that there would be a Skate Park Meeting on March 19, 2005 at 6:00 p.m. at the recreation center. She advised that at that meeting, we will be looking at the final plans and the public is invited. In addition, Ms. Quattlebaum mentioned that the Car Show Parade is this Friday, March 11, 2005 at 7:00 p.m. Mayor Barbour said that he does intend to be there. Lastly, Ms. Quattlebaum reminded Council about the Freeman Park Dedication Ceremony on March 18, 2005 at 2:00 p.m. Immediately following the ceremony, Ms. Quattlebaum announced that there will also be a reception and invited the public to attend.

Scott Chase, Planning & Development Director, informed Council that he would be out of the office tomorrow due to a death in the family. Mr. Chase also asked that an elected official representative attend the county commissioner's meeting on Monday.

Debbie McCabe, Deputy Town Clerk, mentioned to Council that the North Carolina League of Municipalities is holding their 2005 Regional Meeting in Carolina Beach at the Courtyard Marriott this

year from 4:00 to 6:00 p.m. Ms. McCabe advised Council that we would get them a copy of the registration and to let us know if they plan to attend that event.

Councilman Doetsch announced that he attended a meeting in Swansboro, NC to help support the Carolina Beach Inlet issue. He thanked Councilman Lynch and Valita Quattlebaum for attending it with him. He felt that the beach communities of the State of North Carolina are together and united concerning this issue. Councilman Doetsch feels that by all of us pulling together, we will have a bigger impact on Washington and that it was a very productive meeting.

Mayor Pro Tem Efird commended Brian Roberts, Fire Chief, and the Carolina Beach Fire Department for what their department does and for coming to their rescue during a fire call at Anchor Bay this past week.

**ADJOURNMENT**

There being no further business, Mayor Barbour made a motion to adjourn. **MOTION CARRIED UNANIMOUSLY.** The meeting adjourned at 8:46 p.m.

Respectfully submitted,

Deborah J. McCabe  
Deputy Town Clerk

APPROVED: \_\_\_\_\_