

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

June 14, 2005

The Town Council of the Town of Carolina Beach met in regular session on June 14, 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 Town Manager, Calvin R. Peck, Jr. and Town Clerk, Lynn N. Prusa.

Before invocation, Mayor Pro Tem Efird led everyone in prayer in memory of Stephen Haydu and Dale Applewhite who is very sick. Councilman Jack 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:

Add to Consent Agenda – Item #11(m)

Set a public hearing date for July 12, 2005 at 7:30 p.m. or soon thereafter to consider amending Article 16 Planned Unit Development and subsequent sections of the Zoning Ordinance.

Delete from the Consent Agenda – Item #11(d)

Set a public hearing date to consider a request to rezone from R-1B to MB-1 property located at 401 Marina Street, Oceana Marina.

Amend Item #11(k) by discarding Page 3 proposed Resolution No. 05-826 Authorizing the Sale of Certain Surplus Personal Property and replacing it with the attached copy that includes an additional item (Orba Com 400 MHZ Base Consol, Model CAL-DA, Serial #711).

MOTION CARRIED UNANIMOUSLY.

RECOGNIZE CITIZEN OF THE QUARTER

On behalf of the Town of Carolina Beach, Mayor Barbour presented Duke Hagestrom with Proclamation No. 05-829 as Citizen of the Quarter.

Following the recognition of Mr. Hagestrom, Mayor Barbour made a motion to approve Proclamation No. 05-828 (Exhibit 1). **MOTION CARRIED UNANIMOUSLY.**

RECOGNIZE NEW EMPLOYEES

Scott Chase, Planning & Development Director, introduced Ed Parvin, who is now going to fill the new Town Planner position in the planning department as a permanent full-time employee July 1, 2005. Mayor Barbour announced that Mr. Parvin has worked with us as an intern for a few years and this past year graduated with a Master's Degree in Public Administration from UNCW.

EMPLOYEES FOR YEARS OF SERVICE

Mayor Barbour recognized Richard Bedgood, Utility Maintenance Crew Leader, for his 5 years of service to the Town of Carolina Beach.

PRESENTATION CONCERNING THE 2006 SHRINER SPRING CEREMONIAL IN CAROLINA BEACH

Mr. Olen Smith made a presentation to Council to make them aware of the 2006 Spring Ceremonial of the Sudan Shriners to be held in Carolina Beach with a projected attendance of about 1000 and their spouses that attend these events. Sudan Shriners are the 8th largest Shrine unit in North American with 6600 Shriners. This event is expected to be held the third week of May 2006. Some of the activities will be a fishing tournament, a golfing tournament, a cruise for the kids, a memorial service, a dance, a Shriners parade, a free dinner, etc. Mr. Smith feels that this will be good publicity for Carolina Beach too.

Mayor Barbour announced that we look forward to it.

PRESENTATION CONCERNING THE CITIZEN-SOLDIER SUPPORT PROGRAM

Ms. Crystal Moore, with the Department of Defense and Community Liaison for Southeastern North Carolina, made a presentation to Council concerning the Citizen-Soldier Support Program. Ms. Moore reported that this program is federally funded and designed to strengthen support for the National Guard and Reserve families by building and reinforcing the capacity of local civilian agencies to better serve the local military families.

Ms. Moore left some handouts about the program for Council and the public with her contact information for anyone interested in getting involved in the program. Ms. Moore also announced that there is a community organization meeting tomorrow at the North Carolina National Guard Amory on Kerr Avenue.

Following Ms. Moore's presentation, Mayor Barbour read aloud the proposed proclamation and made a motion to adopt Proclamation No. 05-829 (Exhibit 2). **MOTION CARRIED UNANIMOUSLY.**

After passing of the motion, Mayor Barbour presented Ms. Moore with Proclamation No. 05-829.

PUBLIC DISCUSSION

Mr. Nick Benson, resident of 801 Carolina Beach Avenue North, thanked Council, staff and employees for their support of the Pleasure Island Merchant's Association (PIMA) events, especially the operation and police departments for their contributions. Mr. Benson presented the town with a Certificate of Appreciation.

Council thanked PIMA for recognizing the town and for all their hard work PIMA does for the Town of Carolina Beach.

Ms. Patricia Lydon, Director of Sales for the Courtyard Marriott, spoke about hotelminiums/condomotels. Ms. Lydon feels that historically these types of hotels are not well-maintained and usually fail. She recommends another branded hotel so quality and expectations are met and asked Council to consider removing the definition of hotel.

Mr. Leroy Franks, resident of 908 Canal Drive, reported an item of public safety concerning a project under construction at 910 Canal Drive, the pavement is 3 ½” to 3 ¾” too high and so is the storm drain. He asked that it be looked at for safety reasons. Mr. Frank also reported that when he put in his driveway, the town told him it would have to be level with the drain or he would be fined \$1,000.00. He wants to know why the same isn’t true for this project. Mayor Barbour told Mr. Franks that we would look into that.

Ms. Mary Ann Martin, resident of 319 Cape Fear Blvd., asked for an update of what the town is thinking about doing if the library and senior center are moved. Councilman Lynch thought there was some discussion about making it parking. He asked that the public information officer respond to Ms. Martin’s question.

In conclusion of the public discussion, Mayor Barbour told Ms. Martin that any plan or development that we start looking at will be made public.

CONSENT AGENDA

Mayor Barbour made a motion to approve the consent agenda to include the corrections on page 9 of the May 17, 2005 council minutes described herein by Councilman Lynch as follows:

Councilman Lynch requested that the town clerk correct page 9 of the May 17, 2005 council minutes of the first paragraph by changing \$5,000 to \$500,000; change the word “accepted” to “received” in the 4th paragraph and replace the words “the town accepted an offer that was more than half of what was offered initially” to read as “the town accepted an offer that was more than one half million more than what was offered initially.”

Approval of the Minutes:

Regular Meeting

May 17, 2005

Approve Budget Amendments and Notification of Budget Transfers:

Legislative-Transfer

A request was made to transfer \$5000 from legislative account 104100.06 to account 104100.72. This purpose for the request is to donate \$5000 to the NCSBPA.

Planning-Amendment

After reviewing a shortage in the Planning Departments salary account, I discovered that based on the personnel and positions in the department that not enough monies were appropriated at the beginning of the 04/05 budget, monies were appropriated at \$171,708 when in actuality the department had \$226,582 in staff thus leaving a

shortfall. Therefore, I am asking for a budget amendment as follows: Increase account 104910.02-Salaries in the amount of \$43,373, increase account 104910.05-FICA in the amount of \$3318, increase account 104910.06-Group Insurance in the amount of \$2082 and increase revenue line item 103550.00-Building Permits in the amount of \$48,773.

Planning-Transfer

The Planning Department has hired an additional intern from May 9th to July 15 at a cost of \$2000 the monies for the internship program are in the Executive Department; therefore they are asking that \$2000 be transferred from account 104200.01-Executive MPA Program into account 104910.02-Planning Salaries.

There are remaining funds in the amount of \$7000 due for the CAMA Land Use Plan update; therefore Planning is asking that \$7000 be transferred from account 104910.74-Capital Projects over \$10,000 into account 104910.45-Contract Services.

In order to have enough funds to complete the maintenance cost for the year in Planning they are requesting that \$2,400 be transferred from account 104910.33-Supplies into account 104910.16-Maintenance and Repair.

Fire-Transfer

The Fire Chief is asking that \$4,420 be transferred from account 105300.74-Capital Projects into account 105300.06-Group Insurance in order to complete the years' insurance costs.

Police-Amendment

The Police Department is asking that the budget be amended to include the purchase of an additional Mobile Vision in Car Camera System. The monies for this purchase will come from account 105100.16-Maintenance and Repair of Equipment. The amendment will be increase account 105100.74-Capital Projects over \$10,000 and decrease account 105100.16-Maintenance and Repair of Equipment in the amount of \$11,468.65.

Operations-Transfers

Below is a list of transfers needed in the Operations Department for account overages, they are as follows:

From Account	To Account	Amount
105000.08	105650.08	\$ 40.20
308000.46	308000.11	149.78
308000.46	308000.16	120.36
308000.46	308000.87	.35
308110.14	308100.32	725.30
308120.16	308120.19	53.56
309000.21	308140.33	70.75
309000.21	309000.33	3.26
309000.21	309000.45	32.85

Also is an excel spreadsheet for transfers I made to and from accounts in order to complete the budget year.

**Budget Transfers and Amendments
As of 5/25/05**

From Account	Amount	To Account	Amount
104100.51	2,000.00	104100.58	2,000.00
104100.86	7,900.00	104100.58	7,900.00
104100.70	17941.00	104100.58	17491.00
104300.14	1070.00	104300.06	1070.00
104300.14	930.00	104300.12	930.00
104300.56	90.00	104300.12	90.00
104300.56	2175.00	104300.59	2175.00
104300.51	1000.00	104300.59	1000.00
104400.51	200.00	104400.06	200.00
104400.51	390.00	104400.46	390.00
104400.51	148.00	104400.37	148.00
104400.14	1,500.00	104400.37	1,500.00
104400.12	4,800.00	104400.37	4,800.00
104910.51	785.00	104910.07	785.00
104930.51	100.00	104930.06	100.00
105100.02	2,817.00	105000.02	2,817.00
105100.02	17,081.00	105000.02	17,081.00
105000.25	2,714.00	105000.03	2,714.00
105000.25	286.00	105000.05	286.00
105000.13	1,348.00	105000.05	1,348.00
105100.02	8,804.00	105000.06	8,804.00
105000.13	1,243.00	105000.09	1,243.00
105000.13	727.00	105000.11	727.00
105000.13	3,208.00	105000.51	3,208.00
105000.13	657.00	105000.07	657.00
105100.02	800.00	105100.00	800.00
105100.02	800.00	105100.06	800.00
105100.02	5,785.00	105100.09	5,785.00
105100.02	800.00	105100.06	800.00
105300.75	120.00	105300.74	120.00
105650.13	501.00	105650.06	501.00
105800.02	16,000.00	105800.45	16,000.00
105800.51	2,800.00	105800.45	2,800.00
105800.74	3,000.00	105800.45	2,800.00
255200.02	4,890.00	255200.09	4,890.00
255200.02	200.00	255200.03	200.00
255500.51	1,000.00	255200.09	1,000.00
255500.06	1,400.00	255500.02	1,400.00
255500.06	100.00	255500.05	100.00
255500.06	100.00	255500.07	100.00
255500.06	1.00	255500.74	1.00
308000.45	1,500.00	308000.02	1,500.00
308000.45	500.00	308000.03	500.00
308000.45	150.00	308000.05	150.00
308000.45	125.00	308000.06	125.00

From Account	Amount	To Account	Amount
308100.35	1.00	308100.47	1.00
308110.51	700.00	308110.14	700.00
308130.51	100.00	308130.06	100.00
308130.51	200.00	308130.13	200.00
308140.06	6,800.00	308140.02	6,800.00
308140.06	2,085.00	308140.03	2,085.00
308140.06	700.00	308140.05	700.00
308140.06	300.00	308140.07	300.00
308140.06	2,430.00	308140.45	2,430.00
309000.51	820.00	309000.12	820.00

Set a public hearing date to for July 12, 2005 at 7:30 p.m. or soon thereafter to consider a request to modify a Conditional Use Permit for a Planned Unit Development located in Wilmington Beach north of Ocean Blvd. and west of Pinfish Lane.

Set a public hearing date for July 12, 2005 at 7:30 p.m. or soon thereafter to consider a request to rezone from MX (Mixed Use) to HB (Highway Business) at 505 N. Lake Park Blvd. and 202 Wilson Avenue.

Set a public hearing date for July 12, 2005 at 7:30 p.m. or soon thereafter to consider a request to rezone from HB to R-2 property located at 404 Risley Road and portions of 1300 N. Lake Park Blvd. (Southside of Bertram and Northside of Risley Rd)

Set a public hearing date for July 12, 2005 at 7:30 p.m. or soon thereafter to consider amendments to the Zoning Ordinance, Section 3.9 Dimensional Standards for the various Zoning Districts, (b)(6) allowable intrusions into require yard setbacks for residential zones.

Set a public hearing date for July 12, 2005 at 7:30 p.m. or soon thereafter to consider amendments to the Zoning Ordinance Article 11 Sign and Handbill Regulations and Article 8 Landscaping and Buffering.

Set a public hearing date for July 12, 2005 at 7:30 p.m. or soon thereafter to consider an amendment to the Code of Ordinances, Chapter 9 Motor Vehicles & Traffic, Article VI Schedules, Schedule B Stop Intersection, to include a Four Way Stop at Georgia and Delaware Avenue.

Set a public hearing date for July 12, 2005 at 7:30 p.m. or soon thereafter to consider amending Article 16 Planned Unit Development and subsequent sections of the Zoning Ordinance.

Adopt Resolution No. 05-825 (Exhibit 3) to consider a proclamation recognizing August 23rd as “Health Unit Coordinators Day.”

Adopt Resolution No. 05-826 (Exhibit 4) to consider authorizing the sale of certain surplus personal property.

Reappoint Ralph Ellen to fill a 3-year term of office in the magistrate position as a member of the Police Advisory Board.

MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT LOCATED AT 216 SPARTANBURG AVENUE

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the town clerk. Mr. Chase reviewed with Council the following request for a Conditional Use Permit:

The applicant is Level 5 Development.

BACKGROUND/HISTORY:

The applicant is proposing to construct 11 residential units (3) Triplex units and (1) duplex unit) at 216 Spartansburg Ave. under Planned Unit Development. The project is located in the R-1 Zoning District. The applicant's proposed structures will not exceed the 50' recommended height requirement. The parcels are located within the 100-year floodplain and will be required to have elevated living space (A-9 Zone).

ANALYSIS:

Maximum lot coverage within the R-1 Zoning District is 40%; the total footprint of the structures is approximately 11,990 sq ft. and equal to 40 % lot coverage based on 11,990/30,000 sq ft property. Density of units allowed under the R-1 zoning district is 15 units per acre and the applicant is proposing in this case 11 residential units. Number units allowed on this site are 10.3 units based on .689 acre x 15 units. The applicant is proposing 11 based on the allowance of the 1 ¼ multiplier available under planned unit development. If the applicant was to subdivide the property into 6 parcels, by subdivision approval, the applicant could build 6 duplexes for a total of 12 units. The proposed structures will not exceed 50' feet in height. Setbacks in the R-1 Zoning District are 7.5' (side), 20' (front), and 10' (rear). The applicant is providing a 12.5' setback on Spartanburg and Sumter and a 20' setback on Third Avenue and a 12.5' setback in the rear and 18.33' between structures. The applicant is providing the 44 required spaces that will be located underneath each structure. The applicant is proposing to detain and treat the first 1.5" of rainfall before released into the Town's system. The applicant is providing for landscaping, street trees, sidewalks, curb and gutter consistent with the Town's recently modified landscape ordinance that is to be reviewed by Town Council in May.

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 Inspections. Planned Unit Development proposals are allowed with the approval of a Conditional Use Permit in R-1 zoned properties. Staff recommends the following conditions if the proposal is to be recommended for approval:

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 Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.
5. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
6. Flood Certification must be presented prior to issuance of certificate of occupancy.
7. A portion of the property is located within a wetland area. The area must be delineated on the site plan. A fill permit must be obtained from the Army Corps of Engineers for any fill located within this area. Designated wetlands or marsh may not be calculated as part of the permanent open space requirement nor utilized in calculating density.
8. The site must include 25% open space and be shown and designated on the site plan.
9. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
10. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan. Landscaping plan must show existing vegetation to be removed that is larger 4" in caliper or taller than 10'.
11. 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.
12. 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.

13. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
14. A sign permit must be obtained for any new signs located on the property.
15. 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 planned unit 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.
16. 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.
17. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
18. 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.
19. 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 May 12, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission recommends by 4-2 vote to deny the request for Conditional Use Permit based on *the location and character of the use if developed according to the plan as submitted is not in harmony with the area in which it is to be located.* (GENERAL CONDITION 4)

After Mr. Chase made his presentation, Councilman Lynch asked Mr. Chase to clarify if they are exceeding the setback in two out of the three cases in the analysis. Mr. Chase said, yes two cases.

Councilman Doetsch inquired about trying to save the trees. Mr. Chase informed Council that they could make it a condition that the trees be replanted if they are located within the proposed footprint and transplant some of those trees into the landscape buffer.

Councilman Lynch questioned the impact on the neighborhood if they build six duplexes and how many cars they could have. Mr. Chase replied, about 36 spaces and 12 units have more impact than 11 units.

There being no further discussion among Council, Councilman Doetsch made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Prior to speaking, Mr. Stewart Pittman and Mr. Trey Dancy, with Level 5 Development were sworn in by the town clerk. Mr. Pittman viewed with Council the proposed area to be developed and the surrounding wetland areas, landscaping and footprints. Mr. Pittman described to Council the density proposal and that they propose

11 units, not 12. They also showed a picture of a similar design on Canal Drive that they developed, which this proposed development would look like and also staggers in the front and back. They have also tried to keep the architecture in a coastal cottage design. They feel that this proposal is consistent with the 1997 Land Use Plan, the storm water runoff and it does not exceed the height recommendations. Mr. Pittman also thinks this encourages a small scale multi-family project.

Councilman Lynch asked how many square feet will be in each unit? Mr. Pittman said it is a little under 2,700 square feet.

Councilman Doetsch asked that every effort is made to move or save the trees if possible? Mr. Pittman felt that they could probably move them to some open areas.

A motion was made by Mayor Pro Tem Efird to close the public hearing. **MOTION CARRIED UNANIMOUSLY**. Immediately following, Mayor Pro Tem Efird rescinded the motion.

Mr. Jim Rees, resident of 610 Atlanta Avenue, does not want to see 6 duplexes on that land either, but he also does not feel this development is what a planned unit development is about. Mr. Rees thinks that these 11 units are 20 feet wider than what a 12 duplex unit place would be, which means a decrease in green space between the units. He thinks this is a large-scale multi-unit because it is one large development. Mr. Rees would like to also see the trees moved. He feels that on this lot that something could have been done to design around the trees in the existing locations and would have been a creative use of the planned unit development process. Mr. Rees does not think this development is a creative use of the space because of the trees and he also does not think this is a planned development because they are using the same plan that they used for their north end development for this project. The only thing that Mr. Rees feels is creative about this development is that they are using the planned unit development zoning to get more out property than what would be allowed by right.

Mr. Leroy Franks, resident of 908 Canal Drive, reminded Council that in the last two years, there have been 41 conditional use permits issued and not one of them was denied for any project. He asked Council to please consider their positions carefully.

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

Councilman Lynch asked how many square feet are in the triplex and the one duplex versus how many square feet in the 6 duplexes? Mr. Dancy responded that like everyone else is doing on this island, we have maxed out to the setback lines on all four sides and they have duplexes on Ocean Palms that are the same at 2,600-2,700 square feet. There is an additional unit so there is an additional 2,700 square feet with 15 feet between them.

Councilman Doetsch commented that he lives in this area and thinks this plan is better looking than the duplexes he looks at across the street and he does not mind those. He also feels that this has less density and population for this project.

Councilman Lynch also mentioned that he has seen their project at the north end and thinks it is a nice project.

Councilman Macon agreed that it is a nice looking project. He said that the purpose of a planned unit development is to allow for architectural design and feels that is what they have done. Councilman Macon stated that for the twenty years he has been associated with the town, that area has been zoned duplex allowing conditional use development. Councilman Doetsch agreed.

There being no further discussion among Council, Councilman Doetsch made a motion to approve the Conditional Use Permit subject to staff recommendations, 1-19; 1-7 specific standards and 1-4 general conditions and try to save the trees. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR A MIXED USE REDEVELOPMENT LOCATED AT 15 CAROLINA BEACH AVENUE NORTH

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the town clerk. Mr. Chase reviewed with Council the following request for a Conditional Use Permit to redevelop (1) approximately 6,300 sq. ft. structure to include 1 residential unit and an arcade on the ground floor (Mixed Use Development) at 15 Carolina Beach Avenue North (Boardwalk):

The applicant is Brett Keeler.

BACKGROUND/HISTORY:

The applicant is proposing to redevelop an existing 6,300 sq. ft. structure at 15 Carolina Beach Avenue N. This project is allowed as a Mixed Use Development by Conditional Use Permit in the Central Business District (CBD). Height, Density, Setbacks, and landscaping in the Central Business District are examined through Conditional Use Permit review. The applicant's existing structure is 21 feet in height. The parcel is located within the 100-year floodplain and will be required to have elevated living space and commercial space on the ground floor shall be floodproofed. The property is also located within a CAMA Area of Environmental Concern and located on the Boardwalk.

ANALYSIS:

The renovations will include:

- First floor: arcade (2,988 sq. ft) on the ground floor; 748 sq. ft. for merchandise sales (retail); and 264 sq. ft. for a garage (private use).
- Second floor: 1 residential unit with 3 bedrooms (2,100 sq. ft).

Hours of operation for the arcade and retail store will be 8 a.m. to 2 a.m. Sunday through Saturday. One (1) to Seven (7) employees will operate on-site during a shift. Maximum lot coverage within the Central Business District is 100%; the footprint of the structure is approximately 4,330 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 1 residential unit with three (3) bedrooms and commercial on the ground floor. The structure is 21 feet in height. Setbacks in the Central Business District are 0' (side), 0' (front), and 0' (rear).

Parking

The applicant is providing the 3 required spaces for the residential unit on-site. These spaces will be located as follows:

- 1 in the garage
- 2 parallel spaces along Canal Drive

The applicant request to utilize Article 7.1(c) *Waiver of Parking Requirements in Central Business District for the 19 (indoor commercial recreation and retail = 1 per 200 square feet)* required spaces for the arcade and retail space. This request for parking from the Town of Carolina Beach will have to be recommended by the

Planning and Zoning Commission for either approval or denial and formally approved or denied by Town Council.

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 recommended for approval:

1. Flood Certification must be presented prior to issuance of certificate of occupancy.
2. 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. (P & Z recommends approval for the use of the Town's parking)**
3. Solid waste is handled collectively by the boardwalk area businesses. The owner will be required to participate in this program and submit a letter confirming participation.
4. 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.

5. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
6. A sign permit must be obtained for any new signs located on the property.
7. 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.
8. 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.
9. 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 May 12, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff recommendations above.

After Mr. Chase's presentation concerning the proposed Conditional Use Permit, Mayor Pro Tem Efird made a motion to open the public the hearing. **MOTION CARRIED UNANIMOUSLY.**

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

A motion was made by Mayor Pro Tem Efird to approve the Conditional Use Permit for mixed use development at 15 Carolina Beach Avenue North subject to specific standards 1-7; general conditions 1-4; and 1-9 staff recommendations. **MOTION CARRIED UNANIMOUSLY.**

After passing of the motion, Mayor Pro Tem Efird said she is delighted to see something positive go in at the Boardwalk.

PUBLIC HEARING – CONSIDER A REQUEST FOR A TEST AMENDMENT TO SECTION 3.8 PERMISSIBLE USE TABLE FOR HOTELMINIUM/MOTELMINIMUM AS DEFINED IN THE ZONING ORDINANCE AND SECTION 7.1 OFF STREET PARKING AND LOADING REQUIREMENTS

First, Scott Chase, Planning & Development Director addressed the hotelminium/motelminium section of this proposal. Mr. Chase explained that any change to Article 23 of the Zoning Ordinance would have to be publicly advertised first before Council can make any changes to the definition of hotelminium/motelminium. Also, Mr. Chase advised that there is a current definition in the Zoning Ordinance that references hotelminiums/motelminiums.

Second, Mr. Chase informed Council that the Boardwalk Owners Group is submitting this request to increase flexibility for new development and redevelopment in the boardwalk area. They propose three changes:

1. Amend 3.8 Table of Permissible Uses to allow for Hotel-minium/Motel-minium in the areas where hotels and motels are currently allowed (MX, CBD, HB, T-1, and I-1).

A definition for Hotel-minium/Motel-minium currently exists in the zoning ordinance although there is no reference to them outside Article 23 Definitions. The definition for hotel-minium/motelminium is:

Hotel-minium/Motel-minium: A structure containing individually owned hotel or efficiency units, and operated in the manner of a hotel or motel.

Recommendation:

Planning Staff recommends this type of use be allowed under a Conditional Use Permit. If allowed Planning Staff recommends preserving a provision for the Central Business District to maintain commercial uses on the ground floor of structures (street-scape) facing the public right-of-way, with the hotel-minium/motel-minium use on the second floor and remaining upper level floors.

2. Amend **Section 7.1 Offstreet Parking and Loading Requirements** for hotels/motels and hotelminiums/motelminiums. The parking requirements would read:
1 per ~~sleeping room~~ **accommodation unit** + 1 per 4 seats in meeting or assembly rooms (see attached "Parking Requirements Comparison" for justification).

Recommendation:

Staff feels that amendment "3" would assist with the goals of amendment "2". Staff could not recommend approval of amendment 2 based on the amount of parking lost from this change. Staff would recommend discussion of item 2. The applicant will offer examples from other jurisdictions concerning item #2 (see attachment).

3. Amend language in Section 7.1 **Offstreet Parking and Loading Requirements:** ~~*Where partial spaces are used, round up to whole number.~~ ***Where fractional spaces are indicated, the total will be counted and rounded up to the next whole number.***

Recommendation:

Staff recommends approval of the request to amend the methods for calculating parking where fractions of spaces exist.

The Planning and Zoning Commission heard this proposal at its May 12, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the text amendments with the conditions as follows:

1. Delete definition of Hotelminium/Motelminium that currently exists in the zoning ordinance, Article 23 definitions.
 2. Decrease parking requirements in MX, CBD, HB, T-1 and I-1 where Hotels and Motels are allowed to the following:
 - a. 1 parking space per 1 sleeping room
 - b. 1.5 parking space per 2 sleeping room
 3. Hotel/Motels within the CBD will be required to have commercial retail on the ground floor.
- Approved amended language in Section 7.1, Offstreet Parking and Loading Requirements as presented

After Council reviewed the proposal, Mayor Pro Tem Efirid motioned to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

There being no public comments, a motion was made by Mayor Barbour to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Since we cannot take any action on #1 hotelminium/motelminium, Councilman Lynch asked staff and the Planning & Zoning Commission to consider it some more and dig a little deeper to see how other resort towns have dealt with this issue.

Councilman Doetsch questioned if the overflow of parking into our public parking areas is accommodating that type of person with a current setup on our parking lots such as the 24-hour coverage, etc. He thinks this is something that we might want to look at down the road.

Councilman Lynch thinks that we need to clearly understand the difference between a hotel and a condo-hotel.

Mr. Chase suggested that the planning staff take at least one more month for consideration and re-examine it one more time.

Councilman Macon asked if he wanted to table the parking portion of it? Mr. Chase replied that he feels comfortable with looking at it in total instead of per unit.

There being no further discussion among Council and staff, Councilman Doetsch made a motion to approve Ordinance No. 05-593 (Exhibit 5) excluding 1, 2 & 3 of Planning & Zoning Commission's recommendations, and approving 7.1(d). **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER ADOPTION OF THE BUDGET FOR FY 2005/2006

Calvin R. Peck, Jr., Town Manager, made a brief presentation concerning the proposed budget for FY 2005/2006 and reviewed the proposal with Council.

After Mr. Peck's presentation, Mayor Barbour stated that the addition of two full time firefighters will also significantly help us when we go for our ISO re-evaluation.

Councilman Lynch asked about the tax rate. Mr. Peck explained that the \$50 million dollar increase to the tax base does not have anything to do with the value of land. It has to do with new construction and renovation, but it is based on the 1999 values for construction. He said that there is no reason that a property is worth 3-4 times more doesn't mean that their taxes would go up 3-4 times more. Councilman Lynch felt that we should continue to talk about this and it is not true as far as the town is concerned. Mr. Peck also added that New Hanover County also has a tax rate.

Mayor Barbour made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mr. Duke Hagestrom read a letter aloud to Council on behalf of the Pleasure Island Merchant's Association (PIMA) concerning the budget for this fiscal year and a request of Room Occupancy Tax (ROT) funds in support of some of their activities. The PIMA respectfully requested \$12,000 for fireworks and 8 display shows and \$10,000 for outdoor projector movies around town such as at the Boardwalk gazebo.

Mayor Barbour asked how much is budgeted in the proposed budget right now? Mr. Peck responded that we have budgeted \$5,000 right now.

Councilman Lynch liked PIMA's ideas because it does bring people to the beach. He would like to see us do as much as possible for this. Councilman Doetsch agreed.

Since it was not funded, Mayor Pro Tem Barbour asked how we can justify it?

Mayor Barbour briefly talked about the 3% disbursement of ROT funds to promote tourism. Historically, Mayor Barbour said that we have used this funding to pay for the lifeguards. Mr. Peck, Town Manager, commented that the lifeguard salary and budget is \$203,000.

Mayor Barbour recommends that we request funds from the Tourism Development Authority (TDA) in excess of what we budgeted for lifeguards. He also asked about fire protection for the 8 fireworks displays. Brian Roberts, Fire Chief, said that it would be an increase to the workload, but we could probably handle it.

Mr. Nick Benson, resident of 801 Carolina Beach Avenue North, mentioned that he has been doing interface with the fireworks company and we get a discount if we have more shows. Mr. Peck said that if Council is committed to doing this, we could take from the Tourism Fund, but if there is a shortfall to the ROT collections, he feels confident that we could appropriate the fund balance from the Tourism Fund revenue from Freeman Park since we have exceeded the revenue.

Mayor Barbour commented that he would like to have a recommendation from the Tourism Marketing Committee (TMC) to take to the TDA when he asks for the funding.

The finance director suggested that Council go ahead and put this in the budget as opposed to coming back later and amending the budget. Mayor Barbour said that Council would add this when they vote to approve the budget.

There being no further public comments made concerning the proposed budget for FY 2005/2006, Mayor Pro Tem Efirid made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Doetsch made a motion to approve the budget and increase in the ROT Tourism Fund and beach maintenance by \$23,000. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER APPROVING ANNUAL CONTRACT FOR AUDITING SERVICES WITH GOODSON & TAYLOR, CPA'S

Mrs. Dawn Johnson, Finance Director, advised Council that it is time to approve our auditing contract for the FY 2004/2005 budget. She received a price from our auditing agent, Goodson & Taylor, CPA's in the amount of \$7,300.00 to perform our audit. Mrs. Johnson asked for Council's approval to honor that agreement.

Mayor Pro Tem Efirid made a motion to approve the contract with Goodson & Taylor, CPA in the amount of \$7,300.00. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER APPROVING EXTENSION OF WASTE INDUSTRIES CONTRACT

Calvin R. Peck, Jr., Town Manager, requested that Council approve the extension of Waste Industries Contract. He also stated that Waste Industries plans to replace the compactor at the Boardwalk that is beyond repair for approximately \$19,000, and they have asked for a 5-year extension to recover their costs. Our town engineer, Harry Dail, recommends that we grant them a 2-year extension until July 2008. Mr. Peck concurs with the town engineer although it is not everything Waste Industries wanted.

Mayor Pro Tem Efirid feels that they do provide a good service. Mr. Peck agreed and said that he does not get calls about trash.

A motion was made by Councilman Lynch to grant the 2-year extension for Waste Industries contract to expire July 2008 as recommended by the consulting engineer and town manager. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER AWARD OF BID FOR SKATEBOARD PARK

Ted Lashley, Parks & Recreation Director, asked Council to consider awarding the bid for the Skateboard Park Project to Lumina Builders, Inc. in the amount of \$115,000.00. Mr. Lashley explained that one of the stipulations that was put on the bid acceptance was using an experienced skate park builder to do the rounded curves so one of their subcontractors, Micro, is experienced in doing this. Mr. Lashley mentioned that Lumina Builders is also easy to get in touch with and recommends that we award the bid to them. Mr. Lashley also thanked Jim Rees for designing the project

Mayor Barbour asked if there would be cameras? He feels that we need to budget extra for the cameras for a liability standpoint. Mr. Peck reported that the WiFi cameras are relatively inexpensive and we should be able to tie into easily and does not see a problem with it.

Councilman Macon commented that we could tie it into the website and watch people skate.

Mayor Barbour mentioned that while he was in Nevada, the biggest problem they had was graffiti on the skateboard park and they installed the cameras.

Mr. Lashley agreed that the cameras and policing would help with vandalism and graffiti.

Councilman Lynch asked if the neighbors back there seem to mind? Mr. Lashley told Council that flyers were put in their mail boxes and he hasn't had any negative comments so far. Further, he stated that the hours of operations will be the same as our recreation center hours, which are no later than 9:00 p.m. Monday through Saturday and no later than 5:00 p.m. on Sunday.

Councilman Lynch also agreed that we need the cameras.

There being no further discussion among Council and staff, Mayor Barbour made a motion to award the bid to Lumina Builders for \$115,000.00 subject to condition and recommended by the Parks & Recreation Director as described in the staff report from Parks & Recreation and that it include cameras and subject to contractor license. **MOTION CARRIED UNANIMOUSLY.**

ITEMS NOT ON THE AGENDA

Mrs. Dawn Johnson, Finance Director, informed Council that this week the town received the \$35,000.00 from the Department of Transportation (DOT) for their cost participation in the Lewis Drive relocation project.

Calvin R. Peck, Jr., Town Manager, announced that he and the planning director will be at the CRC meeting and a PSI meeting on Thursday and total CRC will meet on Friday. Also, he advised that next week is the North Carolina City and County Management Association. Carolina Beach and New Hanover County will be host for the conference on Thursday, Friday and Saturday at the Carolina Beach Courtyard Marriott.

Councilman Macon wanted to clarify an item addressed by Leroy Franks during the public discussion. Councilman Macon explained that the project Mr. Franks was talking about was an attempt to embarrass him because he walked right passed him before he came into to the meeting and could have asked him what was going on with the project. Councilman Macon advised Council that this is a project that he has under construction and when the driveway was poured, the subcontractor messed up so it will have to be torn out. Councilman Macon further noted that he met with the town today to discuss options and that was part of the process that was going on. Councilman Macon stated that he did not choose to address him directly, but he did want to explain that to everyone else and the matter is being addressed.

Concerning Councilman Macon's comments, Harry Oakes, Assistant Operations Director, indicated that there were various remedies and options for this issue.

Councilman Doetsch reported that he has been in touch with Laney Wilson, with Department of Transportation, about the pedestrian heads and we might get help from the state.

Mayor Pro Tem Efird announced that she loves the sidewalks. The town manager informed Council that Progress Energy will remove two telephone poles, but the contractor will come back to repair the sidewalk later.

Councilman Doetsch asked about extending the sidewalk to Dow Road? Mr. Peck said the process may be several months before we get the Department of Transportation's approval to cross Dow Road or put in pedestrians heads.

Mayor Barbour announced that last Friday he met with Sara Medders-Toler, with the Office of Management & Budget for Division of Water & Energy who examines beach renourishment projects inlet waterway maintenance. We invited her to Carolina Beach and went out on the dredge boat to show her the inlet dredging operation. The dredging will continue for the next 15 days to maintain 8 feet at mean level water. Afterwards, we went down the river on the Jilette to Oak Island and met with the Oak Island Coast Guard, Colonel Alexander with the Corps of Engineers, John Morris with North Carolina Department of Water Resources and others to discuss our needs, economic impact and support for beach renourishment and inlet and waterway maintenance. In addition, Mayor Barbour also announced that Senator Mike McIntyre visited with us yesterday to discuss future funding for beach renourishment and inlet and water maintenance. Mayor Barbour recommends that the public talk to their friends and representatives from other districts too. Also, Mayor Barbour announced that the North Carolina Beach & Shore Preservation Association recently renamed their organization to North Carolina Beaches, Inlets and Waterways (BIWAY) and he is also a member of that organization. Along with that, the congressional committee he has been appointed to, the North Carolina Coalition of Beaches and the Alliance for North Carolina Inlets (ANCI) are now under that organization too. In essence, Mayor Barbour said that there are 4 organizations under BIWAY so we now have a bigger voice speaking out in support of beach renourishment, inlet and waterway maintenance for us.

Council thanked the Mayor for his efforts.

In conclusion of items on the agenda, Mayor Barbour made a motion to go into closed session to discuss potential real estate [G.S.143-318.11(3)(5)]. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Mayor Pro Tem Efird to return to open session. **MOTION CARRIED UNANIMOUSLY.**

Mayor Barbour reported that Council took no action, but in the process of discussing the acquisition of the sale of public property, he read the following statement as it pertains to the property at 313 Georgia Avenue:

The terms of 313 Georgia Avenue, D, may prevent the sale of the property because D contains a provision that the land may only be used by the town as a well site. As a result of this discovery, the sale of the land at 313 Georgia Avenue for \$3.4 million to Yakov Tzfanya, a developer from New York, is on hold. The determination of the town's ability to sell the property is under review by the town attorney. In addition, I am directing through the approval of Council, to have our town clerk examine all the deeds of town properties and prepare a list of restrictions for annual review to prevent this situation from occurring in the future. The town will also contact the previous owners of 313 Georgia Avenue to determine willingness to convey the property to the town without restrictions. Also, the town is exploring other alternatives to complete the needed projects such as: two wells, road improvements to Cape Fear Blvd. and Harper Avenue, and new buildings to serve the public's interest if they cannot be resolved.

ADJOURNMENT

There being no further business, Mayor Pro Tem Efird made a motion to adjourn. **MOTION CARRIED UNANIMOUSLY.** The meeting adjourned at 10:42 p.m.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

APPROVED: _____