

**MINUTES OF THE SPECIAL MEETING
OF AUGUST 22, 2008 OF THE TOWN COUNCIL
TOWN OF CAROLINA BEACH**

August 22, 2008

The Town Council of the Town of Carolina Beach met in a special session on August 22, 2008 at 6:00 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 Joel Macon; Mayor Pro Tem (MPT) Dan Wilcox; Councilwoman Pat Efird; and Councilman Jerry Johnson. Councilman Alan Gilbert was absent. Also present were Town Manager Tim Owens and Town Clerk Lynn Prusa.

Mayor Macon called the meeting to order.

***PUBLIC HEARING - CONSIDER LAND USE PLAN AMENDMENT - HEIGHT
LIMIT IN COMMERCIAL 2 DISTRICT***

Gary Ferguson made the presentation. He said this is the first amendment to the Land Use Plan (LUP) since the 2007 LUP was adopted. It was necessitated by the Hilton Garden Inn wishing to go from 115' in height to a maximum of 125' in height with caveats (shown on overhead). Current policy reads the building height shall be defined as that distance measured from the highest appurtenance on the structure to the front street line to: the front street line; the nearest front street line where there is not an adjacent right-of-way; an average of each front street line on through lots. Policy 32 also addresses the issue of building height and basically says the town policy on height for Commercial 2 area shall require no commercial structures to exceed 115'. Any structure with residential units shall not exceed a maximum height of 50' unless the one to one rule is applied not to exceed 60'. The town will undertake a master planning effort with ample public participation in the C-2 area and other areas that tie into the C2 and boardwalk area. The purpose of the LUP amendment is to accommodate 10 additional feet of building height for hotels in the C2 future land use classification map by raising the maximum building height from 115', including appurtenances, to 115' excluding appurtenances. (Showed overhead with C-2 area to be affected by amendment, if approved, on the Land Classification Map.) Proposed Policy 30: building height shall be defined as that distance from the highest appurtenance on the structure to: the front street line; the nearest front street line where there is not an adjacent right-of-way; an average of each front street line on through lots; hotels - appurtenances ten (10) feet or less in height shall be exempted from the height measurement. Policy changes will accomplish the following: (1) Maintain heated space or occupancy area to a maximum height of 115'. They are still not changing the allowances for more use or utility out of a building in terms of heated area. (2) It will restrict the applicability of this allowance to only hotels in the C-2 designation. (3) It will restrict the height of appurtenances to a maximum of only ten feet above the permitted maximum building height of 115'. Council reviewed the Area of Environmental Concern (AEC). The height of existing high-rise structures in Carolina Beach today: The Courtyard Marriott is 136', Pelican

Watch 120', Harbor Oaks is 120' plus appurtenances, Atlantic Towers is about 110', and The Golden Sands 75'. The Harbor Oaks appurtenances are at least 20' above the 120'. Council viewed a depiction from Peter J. Smith of the effect of larger buildings on the oceanfront and creating a shadow impact, based on September 1 at 4:00 p.m. The pros mentioned to this LUP amendment include: (1) The Master Development Plan supports the amendment with suggested heights of +/- 130 feet. (2) Currently there is no building cap outside the AEC's, therefore zoning outside AEC's would support this. (3) The Hilton's request will add economic viability to our CBD. The cons to this amendment: (1) It is a change against the final decisions made during the planning process that went into the 2007 LUP adoption. (2) This is another incremental increase in the building height cap without addressing the issue as a whole. (3) There was no Planning and Zoning Commission recommendation on this and none was required. That is how the Statute GS 113A-110 reads. P&Z voted not to advance a recommendation because of the omitted public notice advertisement and chose to participate in this evening's meeting as opposed to having any perception of perhaps violating their own rules relative to public notice requirements. They were also hoping to have discussed at their meeting amendments to the Zoning Ordinance that would make this policy change in the LUP become a reality in the Zoning Ordinance. Unfortunately none of those topics were heard at the last P&Z meeting. They would prefer to have a special meeting which was scheduled for September 4, 2008 to consider zoning text amendments to define appurtenances, which has been described in this LUP amendment, and also to amend our definition of building height.

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

Tom Johnson, attorney representing the Hilton Garden Inn, 2501 S. Blue Ridge Road, Suite 150, Raleigh NC. He said this has all come about just in going through the process and getting final drawings together for the hotel and where they have evolved from the beginning to now. He knows that is where some of the questions may come, why are they having to come back with this change and that is why. Some of the limitations that they have to deal with: (1) Flood elevation within this area. They are losing 14' with respect to that. (2) Parking - they are putting the parking deck underneath which takes up space as well. One of the other things that have come through this process is that they started off with looking at something like a Hampton Inn and now they are going to a Hilton Garden Inn. In order to comply with the standards of the Hilton Garden Inn, they need more ceiling height within in order to comply with those standards and make it more of an upscale building rather than having the lower ceiling heights in the areas downstairs. The physical limitations as they started putting the plans together showed that they needed that bit of additional of height and to take into account just allowing the appurtenances to go above the 115'. In reality, that is all they are asking is for the exemption with the appurtenances but this would require this type of LUP amendment, as well as the other ordinance amendments in order to take that into account. They are not the only ones that face this limitation. Anybody building within that C-2 district is going to have the same types of limitations when you are dealing with stormwater and handling that and with the flood elevations, you are going to have to have a little more flexibility in

order to have that height. The nice thing is this still comes within the Master Plan limit of 130' for this area of the CBD. He said the architect is also available for questions from a technical perspective.

Jack Lynch, of 1515 S. Lake Park Blvd., said he has lived here since 1996. He has been in the hotel business all his life. He was with Telerent Leasing Corporation for 41 years. The last 15 years as President and CEO and their business was to furnish hotel furnishing packages. At peak they were doing \$1 million in business a day and they built that business up to about 20,000 hotels. People tend to look at a hotel like Mr. Maynard is proposing and think it is an easy job but it is a tough business. If it is not done right, it won't be successful. If it is done right, it is still a tough business because interest rates are high, mortgage payments are high, land is high, taxes, etc. This project really belonged to the developer but also to the town. He knows the town will do everything it can to help make this project a success. This will be a very nice project for Carolina Beach. It will bookend the boardwalk and bring a lot of foot traffic to the boardwalk. We need it done right. As a citizen he is proud of what Russ Maynard has done to bring this to the people and the investment to Carolina Beach and he guarantees that he will personally be guaranteed on the loan. It is a big step for him and the town. He appreciates the job Council is doing.

Leroy Franks, 908 Canal Drive, said he would like to state that Council has bent over backwards to give this developer everything he has asked for. Now he comes and asks again and wants more. The tax payers cannot afford anymore money to be paid to his projects. They are giving up Carolina Beach Avenue N., that is going to turn out to be a fiasco to start with and you went ahead and gave him clearance to do that. For years we discussed height limits. For the last 5 years he has been involved in height limit discussions with each and every one of them but you have gone ahead and set 115' height limit. If you set the rules, go by the rules. They agreed to it when they got the conditional use permit (CUP). They didn't ask for 125' and he would like to point out. This project had been researched for over 3 years and it was approved. The original CUP was approved back in former Mayor Clark's administration. They have had time to see what was going on and they are talking about the height requirements and stuff even before Mr. Maynard had an option on those properties. The height regulations had been approved and passed by CAMA previously.

Charles Eaves, 1311 S. Lake Park Blvd., Unit 31B, and has been an owner since 1984. He said the building of the new Hilton Hotel is the greatest thing to improve the future of Carolina Beach. The Hilton attracts a more upscale clientele which means more money in the cash register which means more room tax and sales tax for Carolina Beach. We need all the money we can find for our future Master Plan and infrastructure improvements. Baby boomers are moving in large numbers to our area and are not going to Florida because of the many hurricanes. Mr. Eaves said he has interviewed over 30 customers in Magnolia Greens, Waterford and Westport in their homes and asked if they would come to the new Hilton complex. His customers in St. James and Winding River, which is just 8 miles from the Southport ferry, all stated they would come for at least 2 days because the last ferry is at 6:15 p.m. in the afternoon. They would come for

Saturday and Sunday. He is sure the Hilton would have a two day minimum. He urges Council to approve the 10 foot height increase so that the Hilton can be built for the future of Carolina Beach. If the proposed lighting on the north end of Snow's Cut Bridge is approved and built to coincide with the building of the Hilton, it would add safety and class to our beautiful island.

Duke Hagestrom, 920 Riptide Lane, said that Wednesday was a really proud day for this island, that groundbreaking was a phenomenal event. He was proud that they had Bev Perdue, Ben David, Carolyn Justice, Mike McIntyre and all these dignitaries to the left of the podium but he was even more proud of the group to the right of the podium because it is one of the few times and it is exciting to him to see a group of people who had a big smile on their faces saying, "Yes, we work together to bring this important thing to this island." It was exciting to him to see how excited and enthused you guys were about this project. One of the things that is striking to him is this project has truly been about a process taken to the people. We all had an opportunity. We were invited to meetings to express our thoughts on this. It happened to also coincide with the master planning process where they all got to come out and express their views. It was pretty cool. This project initially, once upon a time, was going to be a condotel and the people said they wanted a branded hotel and we are getting a branded hotel. And once upon a time this project wasn't going to have a restaurant facility. This project now is going to have food facilities. Once upon a time this project wasn't going to have any meeting space and now it is. The people made it very clear when they came to those meetings that if they could get some of those amenities, they were willing to give a little bit. They were willing to give maybe a little height or give some concessions. They are not asking for much to make this project work, things happen. Because it is an unfolding project and they are taking feedback from the people, you don't have a set in stone design the day that you start this whole process. They have taken the feedback, therefore, the project plans have evolved as they have gotten that feedback. So now we end up with a need from them and it's time, because we want so much from them and they are offering so much to us, for us to be able to say, "Thank you for bringing us this project." These are small concessions in the grand scheme of things. This is going to do a lot for our beach. We get our bookends on that boardwalk. It is going to do a tremendous thing to commerce on this island and he can't implore them enough to support this land use amendment.

Bruce Holston, 5605 Land's End Court, Wilmington, said it has been less than a year since they debated the logic of adopting a definitive Land Use Plan prior to the finalization of the town's new Master Plan. We argued the efficacy of the strategy at length and, in a rare show of Council unanimity, you decided that the if the Master Plan made any general or specific recommendations that required a modification to the Land Use Plan, it would be a simple matter of amending it as necessary. He believes this is a circumstance the previous Council was referring to when they adopted the Land Use Plan prior to the Master Plan. He was proud to have been in the audience on Wednesday afternoon to celebrate the Hilton project but he was even more proud to see our Mayor and Council sitting together under that tent seemingly in unanimous support of this homegrown project. He wishes the whole town could have been there to hear words spoken by our elected officials that day. He doesn't think there was one of them who was

not moved by the words and wisdom of the mayor, Miss Purdue and the simple recognition that it takes an entire community to make a project like this possible. Most towns are not so lucky to have the type of citizen Russ Maynard is, one that will invest money back into the community especially when less politically sensitive opportunities are readily available. Russ Maynard is not an absentee developer swooping in from out of state to take advantage of our community and what it has to offer. He is one of us - a neighbor, an active and caring citizen and a good friend to Carolina Beach. And yet, over the last 4 years, both he and this project have withstood harsh, unwarranted criticism, public degradation, not to mention loss of capital and an investment that has taken over 4 years to bring to fruition. And when no other boardwalk owners would step even to make minor improvements to their property, Russ invested millions of his dollars because he truly believed a project like this would bring our CBD and boardwalk back to life. There is no need to talk about the many financial and emotional benefits this project brings to our community. Each of you knows and understands those benefits now more than ever. The modification to the LUP to allow for an improved stormwater management in a CAMA protected area and to ensure the structural integrity of the building itself alone should justify the recommended changes. His personal feeling is that half of this community has asked Russ to incur, including the redesign of this project to accommodate features they all wanted but couldn't have previously, and after all that he has withstood without throwing in the towel and calling it quits on us, this minor enhancement should be granted and recognition of his commitment and loyalty to this community alone when lesser men would have walked away. Good people don't walk out on their neighbors and Russ has stayed the course with us. Let's demonstrate to our residents and the rest of the world that the town government of Carolina Beach is conscientious, thoughtful, and, most importantly, uses common sense in the application of our laws. Please support this change. It is the least we can do for the greatest possible benefit to our community in these difficult times.

Nick Nolan of 301 S. 8th Street presented a handout to Council (*Exhibit 1*). Mr. Nolan said his comments are directed to the process that they are involved in and that is to amend the LUP. The biggest thing that disturbs him about the proposed amendment process as applied to the Carolina Beach LUP is that it flies in the face of community and the spirit of the Coastal Area Management Act under which it was created. Because of the advertising mistakes that the Planning Commission acknowledged the Planning and Zoning Board was charged by this Council in October of 2004 with being a body responsible for hearing issues such as the one before us tonight and for reporting in a written form to the Council. It would be his contention that Carolina Beach therefore is in violation of Section 1.5, 1.51 and 1.52 of the 2007 adopted CAMA LUP. Our LUP was created by the community and we should take very great care before we throw it out the window for a singular interest. What we are doing sets a very bad standard. Our charter requires that the Planning Commission participate in this process, Section 21.2D 1-6 and the General Standard 153A-321. We have officially adopted our CAMA Land Use Plan as well as our Master Plan. According to General Statute 160A-400.21, these plans are now our comprehensive plans. These are maps to the future where all zoning and related planning changes should be measured. Our Master Plan has set forth very detailed building design guidelines that the Garden Inn project completely ignores, as

well as the call for open space by our LUP. The document he provided to you has a number of exhibits which quote the citations he has used, but he didn't go into reading them all. He said I would like for you to give very serious consideration before voting on this issue as to whether we have in fact met the citizen participation plan that was in place and is still in place for any amendment to the LUP.

George Connett, 1321 Cabot Court, said that to him it is simple economics. You are looking at 10 more feet and you already have two more buildings around here that are 120' and you drive by them and nobody ever says anything. If you put them side by side, you probably couldn't even tell the difference between 120' and 125' and he thinks to allow this to go forward would reap very, very beautiful benefits for this town. Not only in the development of the boardwalk but also in cash flow to this town. It will not only bring in tourists in here, it will be a destination to come down to this beach if you let this hotel go through with the extra ten feet.

Michele Connett, 1321 Cabot Court, was unable to attend this evening, but she asked the Mayor to read into the record an e-mail that she sent to Council concerning the LUP amendments (*Exhibit 2*).

Donald Motsinger, 107 Carolina Beach Avenue S., said he doesn't think anyone here is against this project. If they are he thinks they are a little narrow minded. He is against the process they are going through in considering, in less than a year, changing a document that took 7 years to get through. Once you do that you have set a precedent which is a slippery slope. The parameters are set. Are they or is it going to be when you want to change a parameter all you have to do is change it and come. He would be shocked if their engineers couldn't find that 10 feet in that building. He understands what they are going through, we're talking about a lot of money, but one thing he learned in this process in looking at your proposed budget, when he was up here last he asked about parking. What does it cost the town when you give up a parking space? In your proposed budget you had proposed to build a 4 story parking garage for 400 spaces to the tune of \$860,000 for 30 years. If you equate that out and he likes to work with even figures, you are saying a parking space is worth \$60,000 to \$65,000 when you give them up. So you can give a lot of things up and we can talk about a lot of things but the town will have an investment in this right off the top that they are going to give. He asks that they think about the process, don't forget us little people when you are running for office. You said you were going to represent everybody. I hope you do and good luck.

Mike Kirkbride, 417 Marina Street, said he would like for them to approve this amendment. One of the things he remembers from adopting the LUP and one of the reasons later we adopted our Master Plan, we probably should have held off adopting our LUP until after our Master Plan and we are facing this issue again where our Master Plan calls for 10 to 12 stories and we have a LUP that doesn't quite jive. He said the whole town contributed to the effort in creating the Master Plan. We came out with 10 to 12 stories being recommended. This land use amendment most assuredly takes into consideration the citizens and their efforts in creating that Master Plan so it lines up in his mind very well with what they have all done and it has taken years to get to here and

Russ and Vince through the process with us. He has had to go through the LUP, Master Plan changes and now he is adopting his hotel to meet those and he thinks they have all kind of partnered in this and it has been a rough few years. Four years is a long time to get a hotel off the ground and he knows what that means financially. Bottom line, this plan represents, if they approve the amendment, a foundation if they take the best out of what they have worked with Russ together, they can see that this hotel is really going to have some of the parts that the citizens want that it didn't have in the beginning and they can translate those best parts into some of the projects we are facing here in the future. One that comes to his mind is the bike path where they will have to partner with the whole island and New Hanover County. The other is the pier where they will have to partner with the state, the Aquarium and he just sees this as being the foundation that we need to develop. He is proud of his town, councilmen and mayor and proud of his citizens and how they have engaged in all these things. The future is dependent on us working together and working out our differences so projects can be built not just held in limbo for extended periods of time. He thanked Council for their efforts and hoped they could see their way clear to approve this amendment.

Tom Campbell, 314 Columbia Avenue, said he has been listening to all of the comments, both pro and con, and certainly can't add a whole lot to those except that it occurred to him that what they are talking about here is appurtenances. We're not talking about a developer asking to add another floor or more heated space over 115'. We're talking about maybe an elevator shaft or air conditioning unit enclosure, an appurtenance. It's nothing like another floor. He doesn't see this as a real big deal, personally, and would like to see it approved because he thinks a lot has gone into the project and, when you look at the grand scale, that it makes perfect sense.

Greg Reynolds, 711 Canal Drive, said he would encourage Council to approve this amendment. He is an architect by training and trade and has done 12 hotels in his life. What they are asking for is indeed not more heated space. The override on the elevator shaft is 12 feet so, obviously, they are staying within those requirements. The function of what is happening here, the 10 feet, is purely mechanical and what is required in a building to work like this. He hopes they will approve this and, again, the LUP, he thinks they are in complete compliance what with the Master Plan overrides the LUP. He thinks they are doing what the citizens asked for and hopes they will approve this plan.

Alan Pacek, 101 Island Mimosa Lane, said the LUP was sort of adopted out of sync with the Master Plan. The Master Plan should guide us. It was a concerted effort by a previous administration, by a paid professional who came in and offered guidance to this Council and he thinks they should do that, use that guidance and use some of the expertise that is represented in the Master Plan as opposed to an artificial number that was kind of plucked out of the air. With respect to this hotel project, this is not a cookie cutter hotel. This isn't something that was designed by a large corporation that could fit anywhere. This particular project was in fact designed for Carolina Beach. As a testament to Mr. Maynard, he listened to a whole lot of people and was sort of ahead of the Master Plan in many ways. The Master Plan talks about conference space and ballroom space. In this new hotel plan that is incorporated. In the original plan he

brought to Council whenever he got his CUP, we were talking about a Hampton Inn. The Hampton Inn is the lowest level of the Hilton Hotel chain. It offers a breakfast room and that is about it. And reliable, good rooms that are famous with the Hilton brand. We are getting a Hilton Garden Inn and the design standards are being built even above the standard and typical Garden Inn. Very few Hilton Garden Inns have a center atrium coming down through their center to concourse level and he thinks they are probably the only Hilton Garden Inn in all the world that it's concourse level will be up in the air four levels so that whenever you are standing on level 5, the main level of the hotel, you will be looking out at the ocean and will almost be like you are on a cruise ship looking ahead at rolling water. The other thing about not being a cookie cutter hotel, it was integrated so well into this particular site. It has improved a dangerous intersection. It has separated pedestrian access from the entrance to the boardwalk and segregated it from Carolina Beach Avenue N. where the vehicles will be coming in and out on Carolina Beach Avenue N. They will also have with this new design, in addition to conference space and ballroom, there will be beachfront access to restaurants, boardwalk access to restaurants. He is talking about conductivity in the Master Plan that is repeated over and over and over again. This project really does it. So for all of these reasons he strongly recommends that this LUP amendment be adopted.

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

Councilman Johnson said the hotel is absolutely a wonderful project. It's the process he has a problem with. There was a glitch in advertising and he knows what the planning director said but our adopted LUP says under 1.5, public involvement, and he read a couple of policies. This is the basic policy statement regarding continuing public participation. Carolina Beach believes that ongoing, effective public involvement, combined with a coherent, factual analysis of any public issue is the key to creating and maintaining a direction for the community upon which all may agree. Ongoing, public participation, public involvement in planning matters will continue beyond the planned update process through providing public education and information, utilization of the news media and mailers and public opportunities for discussion and comment on land use issues. The Planning and Zoning Commission will advertise the public meetings held to discuss land use and associated matters. The P&Z has been circumvented here and he thinks this should be sent back to the Planning and Zoning Commission and let them hold a public hearing on this issue and bring forth their recommendation to us and give the public an opportunity to be involved at that level which confirms with what they adopted as far as the current LUP.

MPT Wilcox said he pretty much knows those words by heart. He has been in this room a few times before trying to provide the same information to the previous Council and at times wasn't even allowed his three minutes. He does take them seriously. He was in this process from the beginning, as Councilman Johnson was, on P&Z back when it first started and went all the way through that process to the next Council and whatever happened after that and then as a citizen and now as a councilmember so he has pretty much come full circle on this issue. It seems to him that they are losing sight of what

they discussed back when this LUP was adopted. What they discussed was, the previous Council after everything they went through, no height limit to 140' to 50' back up to 140', all types of arbitrary discussion. And what the last Council decided on when they adopted this LUP was 115' but with a caveat that they would let the Master Plan decide what the ultimate height would be. Not only was that a discussion, that is clearly stated in Policy 32 that talks about the purposes for an ongoing Master Plan. The purpose for that Master Plan because of the indecision, because of the arbitrary nature of the finding of 115', was to determine what the heights really should be. Then you go on to the public participation issue. He understands the citizen participation plan and the public involvement policy and, in his estimation, we have done that. We've had an extensive master planning process that included the public on a higher level than any land use planning process we have ever had before. He doesn't think they have bypassed or sidestepped anything. They went through a LUP process and it was determined what the Master Plan process would make, set certain guidelines for that. Ultimately they would go back and make amendments to that LUP. He thinks that is where they are today. He doesn't think there are any surprises here. He thinks they have let that process unfold to where it is and that plan supports projects of this nature and it certainly supports heights of this nature and even higher. They are not talking about adding a full story. They are talking about some appurtenances, elevator shaft and some other issues. In his opinion, what he thinks this project will bring to the town, not only in this day to come, but as Bev Purdue so eloquently stated the other evening, and all the memories and all the families and all those who will come here in the next 30, 40 or 50 years. More importantly, what we are doing right now being the budget issues and things and the tax base, he thinks it is just as important from that perspective. It is not about this project. This is about the limit to the LUP and probably a plan that shouldn't have had as much detail in it that it has but it does and they are dealing with that. We had a meeting here with P&Z and they discussed this issue just recently so they weren't circumvented. They asked P&Z to have a public hearing for this issue. There are no advertisement requirements, statutory for P&Z to advertise. It was advertised for P&Z. The advertisement was probably less than perfect. One of the advertisements went out on time and one didn't but there was no violation of policy there or statute. P&Z opted not to hear this plan at the last meeting so it came to Council and, as he understands it, there is no violation of any policy, statute or anything else. So they have been through the whole process. They have been through 6 or 7 years of this and he doesn't really understand the discussion tonight about this not being consistent with public participation because they went through extensive and expensive and ongoing Master Plan process which they all agreed, as best he recalls, would determine what the LUP amendments would be and that is where they are today, making LUP amendments based on the Master Plan outcome. He feels 100% confident that they are consistent with the vision of that Master Plan and what participation brought or the result of that Master Plan which was a result of participation by the general public.

Councilwoman Efird said we really had good participation in the LUP and the Master Plan, more than she has seen in many years. They gave every opportunity for everyone in this town who had an opinion or wanted to make some comment to come to those meetings which we did have good participation. Flyers were sent out, people were asked to fill out what they wanted and didn't want and she thinks that what they have done is

truly advertise everything that has been going on in the LUP and the Master Plan. She doesn't see why we can't allow a project like this to come into our town and make it so much better for all of us, that we would let a few feet stand in the way of approving this project.

Gary Ferguson said in briefly looking at Mr. Nolan's review, there seems to be a little bit of confusion in what he submitted. It seemed to be pointing out issues concerning amendments to our zoning regulations. That is totally a horse of a different color. We are talking about now an amendment to our LUP and we are, under the statutory requirements basically of CAMA. CAMA follows the county regulations. That sounds strange and odd but CAMA when it was designed and established it required all twenty coastal counties to develop LUPs. It was up to the municipalities within those counties whether or not they elected, not required, to adopt their own separate LUPs. Carolina Beach decided as a town to adopt our own separate plan because we did not want to be guided by the county's plan. However, we still followed the statutory requirements of 113 which is the county rules, not 160A which is the municipality rules that governs towns. With that said, it is clear, both in Mr. Nolan's information he submitted as well as what we have researched on, that there is no required recommendation from P&Z on this proposed LUP amendment. In addition, he will also take an exception with Mr. Johnson's position that this is a policy. When he looks at 1.5 it is not found in our policies in our LUP. Our policies go from 1 to 93 or 98. What is being referred to is language in the beginning of our LUP but it is not a specific public participation policy. He said, I may be mistaken but a LUP does several things: (1) it provides a vision, what we want to become, what we want our Town of Carolina Beach to be ten years out, (2) It is also a legal document but most importantly it is a policy guide and when CAMA and DCM regulates us under their rules for our town in areas of environmental concern, they look specifically and only at our policy documents, our policy statements and that is 1 through 93, 98 and maybe he misread it but he doesn't find that particular language in our policy. He sees some flaws in what was presented as information to not support this LUP amendment. He thinks, if anything, it is silent.

Mayor Macon said he understands what he is saying about the policy and he agrees but he also agrees with Nick in the sense that the thing we want to accomplish is plenty of public input and public participation so he doesn't disagree on that but he does agree with the planning director in that the ordinance is misapplied in that particular situation from what was submitted. Unfortunately we have some time issues and some time constraints. He does not think the end result would be changed by more public participation in that sense. He thinks even those who spoke against it are for this project and the fact that it is a Garden Inn and the fact that some of these construction items do exceed that 115', he thinks there was a concerted effort to stay at the 115'. In the construction business things change as you go along. Through the process information is revealed that causes change and it is a fairly common process in the construction industry. It can be good or bad and sometimes you have to go back to the drawing board. He thinks they have gone back to the drawing board to provide Carolina Beach a much nicer product. Everything that was said was factual. The project did go to the public first and the public spoke. The project is a result of that public input from the citizens. He did not participate in that meeting but

from the pictures he saw the room was full and a lot of the people sitting in this room were in that meeting and that is what the result is. Elevated meeting space and a restaurant so that you can see the ocean instead of looking at the backside of a sand dune which are a result of public input and that is where he stands on it.

MPT Wilcox made a motion to adopt Resolution No. 08-926 (*Exhibit 3*) in support of the amendment of the 2007 Town of Carolina Beach CAMA Land Use Plan. MOTION CARRIED 3-1 WITH COUNCILMAN JOHNSON VOTING NO.

CONSIDER AMENDING THE ZONING ORDINANCE TO INCLUDE A DEFINITION FOR “APPURTENANCES”

Gary Ferguson said the other two items on the agenda haven't been properly advertised. The Planning and Zoning Commission is going to take this issue up at our meeting on September 4th, the special meeting, and they will be bringing it back to you at your next meeting in September both of the definitions of height as well as appurtenances.

Tim Owens said they do ask that you go ahead and advertise this for the September 9th Town Council meeting.

Mayor Macon made a motion to advertise for the September meeting Items 3 and 4 which include the definitions of appurtenances and building height. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

There being no further business, **Councilwoman Efird made a motion to adjourn. MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted,

Lynn N. Prusa
Town Clerk

Approved: _____