

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

March 11, 2008

The Town Council of the Town of Carolina Beach met in regular session on March 11, 2008 at 6:30 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 Joel Macon; Mayor Pro Tem (MPT) Dan Wilcox; Councilwoman Pat Efird; Councilman Jerry Johnson; and Councilman Alan Gilbert. Also present were Town Manager, Tim Owens; Town Attorney, Al Clyburn; and Town Clerk, Lynn Prusa.

Mayor Macon called the meeting to order.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Macon opened in prayer, and led everyone in reciting the Pledge of Allegiance.

CHANGES TO THE AGENDA

The following were presented as proposed changes to the agenda:

Item #13d - Set a Public Hearing Date to Consider Amending the Zoning Map to Rezone – move this to Item 16(a).

Item #13e - Set a Public Hearing Date to Consider Amending the Code of Ordinances, Chapter 9 Motor Vehicles and Traffic, Chapter III Bicycle Regulations, Section 9-87 Riding on Sidewalks Prohibited to Consider Allowance for a Bikeway on Harper and Along the Boardwalk and Down Cape Fear Blvd.; Chapter 3 Animals and Fowl, Section 3-9 Dogs and Other Commonly Accepted Animals and Fowl on Public Rights of Way, Public Lands, Property and Beach – move this to Item #16b.

Item #13b – Budget Amendments and Transfers – would like to discuss this item separately before approving consent agenda.

Mayor Macon made a motion to adopt the agenda with the changes. MOTION CARRIED UNANIMOUSLY.

PRESENTATION OF DRAFT MASTER DEVELOPMENT PLAN FOR THE TOWN OF CAROLINA BEACH

Peter J. Smith gave the presentation on the Master Development Plan (MDP) entitled "Recapturing the Spirit" which focused on the boardwalk with a permanent, public space on the waterfront with an eye to future land use of the central business area as well as the boardwalk area. The process started in August of 2007 with a vision session; steering committee was established and multiple meeting with those groups. All of the elected officials were interviewed, with the exception of MPT Wilcox who was not elected at that time but was later interviewed. In September of 2007 five community focus groups were completed in transportation, real estate and development, environment and number of areas. The first public meeting also took place during that time which looked at the opportunities, issues, problems and potentials in the revitalization of the Central Business District (CBD). In October 2007 over 620 community surveys and over 320 business surveys were mailed out. Another public meeting was held in November 2007 where five different building scenarios were evaluated. In December 2007 a survey was sent to over 85 business owners in the CBD. In January 2008 a third public meeting was held where they received input on the draft plans. The Town Council and steering committee held a joint workshop meeting last night. Tonight is the fifth and final meeting. The plan consists of three different areas: the CBD which includes the Town Hall through most of the commercial areas along Lake Park and the core area which consists of two parts, east and west, and includes the boardwalk. The concept is to reorganize the community, making it function better and more pleasing. Four anchors were looked at. On the north side, the harbor area with a view to expand it, excavate it for transient boaters, create retail opportunities and connect it to the boardwalk. On the west side looked at developing a community center campus, developing a daycare center, a senior center, youth center, library - a variety of community centers with parking strips down Cape Fear and Harper Avenues connecting that through to the central area to the boardwalk area. On the south side looked at an environmental education center at the lake area, redevelop parts of the lake into wetland/boardwalk teaching facilities, an indoor/outdoor environmental center to capitalize on eco tourism and North Carolina curriculum which requires an environmental component. Mr. Smith reviewed a study on the core area which would allow for 270,000 sq. ft. of development space with a view towards two concepts: both focus on open space, allow for the development of an amphitheater, focus on a substantial boardwalk area which runs across the oceanfront, to develop kiosks - transient uses on the ground floor level. (Reviewed three dimensional plan on the overhead.) They recommended four options for making it happen: (1) select a master developer which requires the property owners in the area to form a consortium to negotiate with the master developer and the town to bring someone in to do the entire development and dedicate park space to the town; (2) a Planned Unit Development (PUD) design standards - takes longer and is not as efficient but can be created in the zoning and would require a 50% park dedication per floor plate to create that park area and a creation of design standards for both buildings and site; (3) purchase of development rights - would require a trust to be set up through the town or county, the trust would manage development rights that are submitted by property owners, there would be a receiving area (development site) and sending area (park or green space) and

people would purchase their 50% park dedication from the sending area and apply it to the receiving area; (4) town purchases the land from the boardwalk area (Canal Street to the waterfront) - made a comparison to Kure Beach where a motel area is being developed into a substantial park/open space that will be the focal point of Kure Beach which was done through grants, getting the funding from outside sources and purchasing the property. This is an option the town may want to look at as far as purchasing the property and looking at rezoning the area around it and putting design standards on it. Mr. Smith projected an MDP implementation matrix that showed various projects, estimated cost, priority, responsibility, etc. He thanked Council for the opportunity to work on it, staff, the steering committee and the public that came out to the meetings.

Councilman Gilbert made a motion to open for public comment. *MOTION CARRIED UNANIMOUSLY.*

The town manager said there will be some revisions to the plan and it will be put on the web site so the community can see it.

Jerry Bigley said he has lived here for 34 years and he thinks it is about time and the town needs to move forward and he is very excited about it. He congratulated Mayor Macon on being appointed mayor and congratulated Councilwoman Efirid and MPT Wilcox, they are doing a great job.

Alan Pacek of 101 Island Mimosa Lane said the plan is always a good starting point. Through the history of Carolina Beach there have been a number of plans collecting dust and he has every confidence in this Council and staff that this one is going to be the one that makes the difference. He wished them every success in working together. Everyone will not be able to agree on every point. The professionals have spoken and if we listen to their advice and staff's direction, who are also professionals in their respective areas, then they can all come together and make good decisions based on good information.

Tom Campbell, 314 #1 Columbia Avenue, said he feels it is time Carolina Beach had a pier on its boardwalk. It would be a major attraction and should be considered.

Mike Kirkbride, 417 Marina Street, said he doesn't feel they necessarily have to adopt the whole plan but rather coming together and seeing what parts of the plan they can make work. He loves the idea of expanding the harbor, of making a park in the downtown area as an intermediate step and generating some type of future for something grander. He sees what Kure Beach is starting to do with their park. He sees Carolina Beach as having a destination for the whole area. The plan gets him excited about other town center type communities and he sees this town coming together with the same series of steps. He applauds everyone and looks forward to being a part of creating it for the future.

Ann Bowman, 1335 Bridge Barrier Road, would like to put her two cents in for the park. Last November she went before the Department of Water Quality and testified on behalf of the new stormwater rules that were started on January 1, 2008. At that time everyone was getting up to speak in favor of the rules and she spoke about Vermont Congressman

Bernie Sanders who decided that 1/10th of their waterfront on Lake Champlain belonged to the people and he made sure that the City of Burlington got enough funds together to buy it. It became the town center and a beautiful park. This is what she told the Department of Water Quality. The people from Kure Beach were sitting behind her and they asked a couple of questions and she gave them some pictures. She would like to second the idea of making at least 1/10th of the boardwalk for the people for a public park with nothing but natural beauty, and it would come back to us tenfold.

Councilman Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

MPT Wilcox thanked everyone at Peter J. Smith, said the plan addressed all of the needed components for a successful master plan, did a great job of identifying our resources and potential at Carolina Beach. He thanked them for their efforts as well as the steering committee.

Mayor Macon said we don't need another plan that goes on the shelf. What was received from Peter J. Smith and Company is a document that is well thought out, takes into consideration those things that are necessary, it is something the town can work from and can begin working on as soon as it is adopted but it is not something that should be taken lightly. There are significant changes in attitudes and property owners that may make it possible. Mr. Bigley spoke positively about the plan even though his property would not be involved, that means a lot. He also feels the time is now.

Councilman Gilbert thanked everyone involved with the plan. There has been a lot of hard work and it's been very exciting. Over 30% of the residents responded to the survey, 27% of the businesses responded, 25% of the CBD - marketing-wise it is well above 10%. He said it is going to be an expensive endeavor and we need patience from the people. The biggest thing for him is the support and trust of the people, that they can trust this board to go forward with it and we need them to hold the Council accountable to this plan. It's their money going into it. We need to get the plan going forward. He is excited and thanks the community for their patience.

Councilman Gilbert made a motion to set a public hearing for the April 8, 2008 Council meeting at 7:30 p.m. or soon thereafter.

MPT Wilcox asked how the hearing would be advertised. Tim Owens said something could be put in the utility bills and in the paper. MPT Wilcox said maybe they could do something more in the paper to increase public awareness. Mr. Owens said he could possibly send out a card announcing the plan and the public hearing(s). Mayor Macon said he and Councilman Gilbert had discussed an idea about doing a town hall type event where there could be open dialogue, meet and greet, in the gymnasium. The Town Manager suggested a May or June meeting for adoption. Staff also needs to digest it. He will talk to Peter J. Smith about how to go forward.

Mayor Macon called for a vote, and the MOTION CARRIED UNANIMOUSLY.

REQUEST BY MS. MARY ANN MANGIACAPRE TO HOLD 2008 ESA-SNC DISTRICT SURF EVENTS IN CAROLINA BEACH

Ms. Mary Ann Mangiacapre made the presentation. Said she has been involved with Carolina Beach for over 12 years starting with the PTA, Cub Scouts master, worked the Pleasure Island Soccer League, helped with the PI Baseball League, and is currently the Southern North Carolina District Director for the Eastern Surfing Association. They held 2004 surfing regionals in Carolina Beach at Hamlet Avenue and it was a great success. She is now the honorary Interim Competition Director for the whole east coast with 6,000 kids under her. Each year she has to come up with list of her calendar events and then pull out the events for the local area - Carolina Beach and Wrightsville Beach. Each year she gives the town manager a copy of liability insurance and a schedule for the year. The manager asked her to come speak to Council. She would like to give Council and staff a copy of her wish list and unless there are no waves or there is lightening, the contest will be held. Ms. Mangiacapre gave staff a copy of the schedule and insurance requesting that she be contacted on available dates. For the beach setup there is one large tent for administration, the p/a system towards the water - the sound does not start until about 8:00. They always have a beach sweep afterwards. Usually the lifeguards are there. Mayor Macon said he has experience with her contests and they are professionally run and they do clean up and would appreciate support of her contests. Ms. Mangiacapre said there were three rescues of swimmers, not surfers, this year.

Councilman Gilbert made a motion to give direction to staff to review dates and share any conflicts or make a decision on their own. MOTION CARRIED UNANIMOUSLY. Mayor Macon thanked Ms. Mangiacapre for her hard work.

REQUEST BY MR. THOMAS MANGIACAPRE TO HOLD CAPE FEAR SURF FEST IN CAROLINA BEACH

Thomas Mangiacapre, President of the UNCW Surf Club, is requesting a permit on behalf of the club to hold a surf tournament approximately 60 yards north of the North End Fishing Pier. The tournament is a ESA sanctioned event and would be run similarly to the ESA standards. It is the number one fundraiser for their club. The collegiate surf tournament was held last year at Ft. Fisher, was very successful and there were no issues. This year he would like to bring it to the town of Carolina Beach. Initially spoke with Tim Owens and Ted Lashley about what needs to happen for the event to be successful and one of the main issues was the limited parking at the north end. He got in touch with the owners of the pier and they offered their 60+ parking lot for free and they will encourage carpooling. They plan to do 4-wheel drive at the north end and utilize the pay lot at 1704 Canal Drive where the police substation is. With all that there shouldn't be an issue with parking. They are asking to use the beach strand between the pier and port-a-potty fence line on Freeman Park on April 4, 5, and 6 2008. They will use scaffolding for the announcers, judges and beach marshals. That would be erected on Friday afternoon and disassembled on Sunday followed by a beach sweep immediately after. They plan to

use the beach trashcans in the area and will empty them each evening after the contest at the pier dumpsters. They will also use the porta-potties there. They feel it is a good location and will be a great success. Council questioned the distance from the pier. Mr. Mangiacapre said it would be outside what the ordinance requires. Fishing will be closed down on that side. He is concerned about the submerged pilings so he will go further north of the area and put up buffer flags so that it is clearly marked. Tim Owens said the Pleasure Island Soccer Association Sand Tournament is the same weekend but was informed that it is to be at the boardwalk area and would not conflict.

Councilman Gilbert made a motion to approve the UNCW Surf Fest to be held on April 4-7, 2008. MOTION CARRIED UNANIMOUSLY.

REQUEST BY MS. AMY TOMASAK TO HOLD A BRAIN ANEURYSM AWARENESS WALK IN CAROLINA BEACH

Tim Owens said that Ms. Tomasak was unable to make the meeting but that he received an e-mail from her stating that she will be holding a walk to raise funds for brain aneurysm awareness to be held on May 24, 2008. It will be from 10:30 am until noon at the Carolina Beach Presbyterian Church. This request does not require a motion but he wanted to give her some exposure.

REQUEST TO HOLD EAST COAST GOT 'EM ON CLASSIC IN CAROLINA BEACH AND CLARIFICATION ON SUSPENDING PARKING ENFORCEMENT FOR PLEASURE ISLAND BEACH MUSIC FESTIVAL

Tim Owens said the town generally suspends parking for the Got-Em-On Tournament and suspends parking in the fisherman's lot across from the marina. They are requesting to hold the three day event and suspend parking. The other item is the Beach Music Festival to be held on Cape Fear, including the right-of-way. In the past the parking hasn't been suspended but he needs clarification from Council on whether to suspend enforcement of parking on that day, mainly in the CBD. Councilman Gilbert feels we can't afford to set that aside considering our tourism budget. Fishing tournament people come and go and don't take up a lot of parking. Mayor Macon said that in the past they have allowed the surfing tournaments to have free parking and he feels that encourages the events to be held at the beach rather than someplace else. Mr. Owens said they have a lot of different events every weekend and are you going to forgive parking every other weekend. MPT Wilcox said this event attracts a lot of people and it is going to be held on Cape Fear vs. the beach this year so there is a new dynamic there. He is in agreement with the Mayor and does not have a problem with suspending the parking for one day and see how it goes this year and have a better feel for what is necessary. Councilman Gilbert said he would like to know how much revenue would be sacrificed for that event before making a firm decision. If this will be the policy then they need to see what that revenue loss would be. MPT Wilcox said he doesn't have a problem charging for parking but he is concerned with people using creative parking because of a lack of space and then

getting tickets and being towed away - maybe they could suspend the over zealous enforcement. Mayor Macon said that with the surfing tournaments what they used to do is give the contestants a voucher for discounted parking and that would be a positive thing and it makes the town look good. Councilman Gilbert said he feels it's reasonable if they are paying a \$35 registration fee to surf in the contest that maybe it would stimulate more people to be in the contest if they didn't have to pay \$5 for parking all day - same way with the workers/employees at the Beach Music Festival or other events. He would like for the town manager to come up with some numbers and then talk about it at a later date before the event.

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Mayor Macon recognized: Brenda Butler, GIS Officer, for 5 years of service. He also recognized Harry Oakes, Assistant Operations Director, for 15 years of service. Mr. Oakes will be retiring soon and he thanked him for all his hard work and wished him well in his coming retirement. MPT Wilcox thanked him too on behalf of the Boardwalk Makeover crew.

INTRODUCE NEW EMPLOYEES

Paul Parker, Director of Operations, introduced Frank Toledo, Fleet Service Mechanic and Ross Cook, Utility Maintenance Mechanic. Chief Weeks, Fire Department, introduced Ricky Longnecker, Fire Engineer.

PUBLIC DISCUSSION (five minute time limit per person)

Randy Simon of 1410 Snapper Lane spoke about Wilmington Beach. Mr. Simon said that he heard statements made tonight regarding giving respect to the citizens and decisions made by prior town councils. Going back some three years during the annexation period which happened prior to that, the people of Wilmington Beach were led to believe that they were going to have paved streets, sidewalks in some areas, and storm drain system. Of course the town has met with some obstacles, had to communicate with the Army Corps of Engineers - had obstacles there, had to work with the Department of Water Quality - had obstacles there. He can say now that he is confident through his meetings through and by the Operational Advisory Board, which he serves, that strides are being made in the right direction. They are tackling some of the obstacles. What he was hoping to do but failed in his meetings with operations and his prior requests before Council, was to get some temporary relief to dirt roads, in particular Snapper Lane. The pot holes are very bad. Council has seen the area. A grader is being looked at which would be the best thing but still nothing is being done. He would like Council to direct appropriate personnel to at least fill in the holes with some rock until the grading is done. He strongly urges some correspondence regarding this request. Tim Owens told him when he has pot holes to just call him, they have a front end loader they

use to grade. Tennessee is worse and they work on that on occasion. They will make more of an effort to check on it regularly. Staff said the town is moving forward, positive strides being made but it will be a long process and not done in the next one or two years. Communication has been established with the Army Corps of Engineers and feels they have satisfied a lot of their concerns. They are now dealing with the Department of Water Quality and if they can get their issues addressed maybe someday they will have those streets and sidewalks made for those people in that area. Mayor Macon said we need to take care of those issues. He thanked Mr. Simon for his service as a volunteer. He stated that they met with the Corps of Engineers and found that the problem wasn't so much with them but with Department of Water Quality. There is a meeting coming up with them. They are also moving forward with their request to handle the stormwater problem. Mr. Owens said they are meeting on March 18th about a number of items, one of them is Wilmington Beach with all the permitting agencies and also about the lake, cleaning it out. They also met with Sunny Point last Friday about the idea of placing retention ponds.

Brett Keeler of 615 Carolina Beach Avenue North said he would like to give an update concerning the skate event. However, before getting into that topic, Mr. Keeler said that he fell about a week ago and was hurt pretty badly and he wanted to publicly thank Charlene Pridgen for making the 911 call as well as the first responders Police Officers Mike Bojko and Chris Potter for their quick response. Without their help he might not have been here today or could have lost his arm.

Concerning the issue this evening, he said there is a skate park event on March 29th and one of the big things going on with this project is the issue with the 18 and over not wearing knee or elbow pads. The precedent at the initial event, when Eastern Skate came in, was that their professionals didn't have to wear them. The problem of getting participation and sponsorship relies on the advanced and professional skaters not having to wear the pads as they feel the pads inhibit their ability to do their tricks and win the competition. A lot of state skate parks require helmets but not the pads. The precedent was set in September by not enforcing that in the exhibition. They have not started signups yet because of this issue. They are requesting Council allow the 18 and over not be required to wear pads. He also requested a starting date for the Arts and Activities Committee. Councilman Gilbert said the ordinance requires helmets, elbow and knee pads, etc. The only way to set aside an ordinance is with an ordinance, the Town Attorney agreed. He felt the causes were certainly noble but it is for skate awareness and to set an example. Mr. Keeler does not feel there will be any participants with the current requirements because the professionals will not come. Tim Owens said it is state law as well as a local ordinance, the town's insurance company would have an issue with it. The only way to circumvent any of that is to change the ordinance, require some kind of legal waiver or something like that if the insurance says it's okay. There is a way to mitigate it but not between now and March 29th. It would set a very bad precedent. Council said they would have to go forward as being required.

ADOPT THE CONSENT AGENDA

Councilman Gilbert made a motion to approve the items on the consent agenda as follows:

Approval of the minutes for the regular meeting of January 8, 2008 with amendment to page 8 and approval of the minutes for the Special Meeting/Budget of February 4, 2008.

Set a public hearing date for April 8, 2008 at 7:30 p.m. or soon thereafter to consider amending the Code of Ordinances; Chapter 8, Article IX Sidewalk Cares to specify allowance in the Central Business District.

Set a public hearing date for April 8, 2008 at 7:30 p.m. or soon thereafter to consider amending Chapter 9 Motor Vehicles and Traffic, Article VI Schedules, Schedule A Speed Limits.

Adopt Resolution No. 08-915 (*Exhibit 1*) allowing the town to execute a contract for CAMA Beach Access Grant.

Set a public hearing date for April 8, 2008 at 7:30 p.m. or soon thereafter to consider a subdivision variance request to Section 12-106 Lots (b) Arrangement and Layout of Lots, and (c) Area and Dimension of the Subdivision Minimum Design Standards for the property located at 501 Risley Road (PIN 313118-30-7324).

MOTION CARRIED UNANIMOUSLY

There was discussion concerning the following requests for budget amendments and transfers:

Clerk

Additional monies are needed in the Contract Service account 104300.45 in the amount of \$800. These funds are needed for contracting out the transcription of the Council Meeting minutes. The request is to transfer \$800 from the Travel and Training account 104300.14 into account 104300.45-Contract Service account.

Parks and Recreation

Additional monies are needed in account 106200.74 in the amount of \$4,000. These funds are needed for the replacement of the bridge to Memorial Island at the Carolina Beach Lake to include pilings, planking and railings. The request is to transfer \$4,000 from account 106200.75 to account 106200.74.

Water

Additional monies in the amount of \$20,000 are needed in the Chemicals and Lab Fees account 308120.32 for additional lead and copper studies now required by the State. The request is to transfer \$20,000 from the Maintenance to Mains account 308120.20 into account 308120.32-Chemicals and Lab Fees.

Lifeguards

The Chief of Police is asking that \$17,332.37 be appropriated from the Tourism Unappropriated Fund Balance to purchase three four wheelers which are needed for the lifeguards at Freeman Park. The amendment, if approved, will be to increase account 253900.00 and increase account 255200.74 in the amount of \$17,332.37.

Planning

Additional monies in the amount of \$1,003 in the Capital Projects account 104910.75 are needed for the purchase of a computer to replace one in disrepair. The request is to transfer \$1,003 from their salary line item 104910.02 and placed into account 104910.75-Capital Projects less than \$10,000.

Councilman Gilbert made a motion to approve all of the budget amendments with the exception of the lifeguard amendment and to make a decision for that on Friday at the goal setting meeting. MOTION CARRIED UNANIMOUSLY.

DISCUSSION REGARDING PARADISE ISLAND, LLC, REQUEST TO BE CONSIDERED FOR SMALL BUSINESS INCENTIVE PLAN AND REIMBURSEMENT FOR FEES PREVIOUSLY PAID FOR WATER/SEWER IMPACT FEES

Tim Owens stated that at the last meeting Council agreed to refund some fees with regard to this conditional use permit. There was another request from Paradise Island, LLC to be considered for the CBD incentive policy. Council has been given minutes of the February meeting, a copy of the policy and his assessment of the policy with regard to Blackhorn. It is his opinion not to consider them for the policy, the policy should have been done on the front end if they were going to do \$500,000 worth of renovations. A public hearing is required and done on the front end. There was also a discussion about having a performance agreement with whoever is doing the capital investment as well as whether the \$500,000 had actually been met or not with regard to the capital expenditure.

William Wright, representing Blackhorn Restaurant, said this is a first hurdle before going to a public hearing. He provided financial statements to Council and staff that talk about capital investments for the Blackhorn and they do have capital investments in excess of \$511,000. He referred them to page 2. He feels it is important for everyone in considering this application to look back at the original resolution. When he looks at it

he feels the key to the resolution is development, revitalization and economic development of the CBD. It appears to him that Council was trying to encourage year round economy, increase employment potential for the town and in the public interest to do so. Blackhorn has laid down roots, they want to expand their business, have made the necessary capital investments in the community and serve everyone with a good product. They have a family style restaurant, arcade, trying to provide entertainment - it is not just a seasonal thing. That is what this resolution is meant to address and encourage. What is going to be presented on Friday, they anticipate spending another \$100,000 with that expansion if it is approved. It is located in the CBD, the CO has been issued, the new expansion will have to get building permits if approved, and then they must have a public hearing. This is the first step, find they meet the qualifications and then have a public hearing. When you look at the six factors on the second page of the resolution, the first one is the need for appropriations as a deciding factor for the location and expansion of a project in the town. They have already done it, planning on doing more, this will help address that. With other restaurants that have closed, they have more demand than they can supply now. Second, look at the amount of the new or expansion capital investment - have addressed that, they have exceeded the \$500,000 with another \$100,000 proposed for the expansion. They want to provide an additional 140 seats in a courtyard setting, additional parking, improve the landscaping and beautify what they have in the CBD. Right now they are employing 13 to 14 Carolina Beach residents, that number is in flux. There will be more employees in the summer if the expansion is allowed. They want to employ Carolina Beach residents. They want to provide money for the economy of Carolina Beach. The type of product provided is a first class establishment and is a definite upgrade of what was there before. Past performance - they are here to stay, expanding on their investment, want to better services to the town and continue to run a first class business in the CBD. If you look at the broad language that this resolution has he feels it gives Council broad discretion to allow these types of things to encourage the development, to encourage continued investment and that is what they want to do and they would ask that Council set a public hearing, hear the comments. They will come back and give some more detail for those comments at that time and hopefully Council will see fit to help them out and allow the incentives that are in there for past fees and any future fees if they do allow the expansion that is on the agenda for Friday.

Councilman Johnson asked the town manager regarding where it says project must produce new or expanded capital investment of more than \$500,000, he's looking at that two ways and wants to make sure he understands that. The initial project has to be \$500,000 or more, is that correct? Tim Owens said \$500,000 capital. Councilman Johnson asked if a business expands, does the investment there have to be \$500,000 or more? Mr. Owens said a \$500,000 capital if you are renovating a building or a new construction, it is a \$500,000 capital investment. He has not seen tonight as far as capital investment, to him it would have to be improvements that would stay with the land, he would not include tables. He knows there is some tax benefit to the town for personal property but, what will happen when they close down the tables will go away, the bar may go away. He would say the actual physical improvements to the property, the real estate. It is Council policy and Council can make the determination as to what the policy says. Councilman Johnson says he agrees with what the Town Manager is saying based

upon the policy and doesn't feel they have met the initial project investment of \$500,000.

Councilman Gilbert became aware of this policy in 2001 because he was curious what they were doing for small businesses and it was pretty apparent that this was for larger development. If you take the math from the Marriott, say \$20,000,000, and you look at item 8 you're talking about \$70,000 - that is a pretty good incentive to come in and do something like that. He does not feel the shoe fits in this case and tends to agree with the Town Manager's assessment. Yes they do need small business incentives but he doesn't think this is it. He feels they can do something a little different with securing some loans or underwriting loans but looking at the balance sheet that has been provided, they have \$10,000 in the bank, \$12,000 in inventory, equipment, the math doesn't work for him with respect to this CBD revitalization and economic incentive policy. It started at \$500,000 worth of investments and the Marriott is the only one that took advantage of it. He would expect other large projects to take advantage of it but agrees that the shoe does not fit in this case and it is retroactive and doesn't make sense to go back a number of years and willing to pay interest on money you have already given. He would have to go along with the Town Manager's recommendation. Mr. Wright added that he thinks it is important to point out on the balance sheet that what they were focusing on was a lease hold improvements and these are things that are going to stay with the building. Tables and chairs, if you look at the balance sheet, are the furniture and fixtures part of that. Just in the lease hold improvements they have over \$511,000 and that is where he is coming from on the capital investment to the building. Councilman Gilbert said that when they look at the New Hanover County assessments, do they not include those lease hold improvements? The New Hanover County assessment on the building is \$262,242 which was brought at the last meeting as the appraisal of the building. So if you've done these lease hold improvements, it seems like that would reflect with respect to the tax value of it. That is what he would have expected.

MPT Wilcox asked if the \$511,000 amount is to date. Mr. Wright said yes. MPT Wilcox asked if part of it was based on the initial project and some afterwards. Mr. Wright said yes. MPT Wilcox stated that an assessment is different than an appraisal and neither one necessarily reflects the value of capital improvements. His first response to this resolution is that it could have been written better but he has some technical problems with it with regard to the request. He likes what the Blackhorn is doing, they are progressive and he very much appreciates what they have brought to the town. The first problem he has with it is, the way he reads it, the initial capital improvements would have had to have been \$500,000 or more and the initial project was less than that and the \$511,000 includes work that was done under a secondary CUP. He does not feel that fits with the intent of the document. Also, item no. 7 where it says the project to qualify must enter into a written performance agreement with the Town of Carolina Beach to ensure satisfactory progress toward meeting the expected goals of new or expanded capital investments, job growth and, where applicable, training to be provided by the project. He feels the purpose of that is to establish a baseline and that baseline was never established. He does not feel the request fits with the intent of the resolution.

Councilwoman Efird said she does not feel it quite fits. They are doing a great job and it's a great place. They should start some kind of incentive for small businesses but this is not the right way to go.

Mayor Macon said he has trouble making it fit with the resolution. They have done a terrific job, they believe in this town and have put their money into it. They continue to volunteer and do a lot of things and he would love to help them but it just doesn't fit based on the way they have to look at things. They have a new business committee and he thinks one of the things they should be charged with is coming up with some type of plan that can help folks who want to start a business and improve their business. That would be the avenue they would need to move forward on.

MPT Wilcox said he would encourage staff to provide a copy of this resolution to the business committee to work through it. Maybe \$500,000 and what they call major projects are not they most well suited for this type of incentive program. He is a little confused by no. 10 where it refers to small business revitalization while all through the rest of the document it refers to major projects. He doesn't understand how that fits or what the intent was. Councilman Gilbert said that the interest from what the larger project would pay would go into a fund that would actually go to funding small businesses. MPT Wilcox said maybe they have the incentive in the wrong place. If the large projects are not taking advantage of this resolution, then perhaps the smaller groups that need some incentives to open businesses should. He can't change how he feels about how their request fits this but he would encourage the business community to try to do something with it. He would also encourage, if they happen to have any other projects coming before the board, to get on tap with that.

Brett Keeler, 215 Carolina Beach Avenue North, said they threw it in as a stab in the dark. They knew it fit in the grey area. After Councilman Gilbert and the election debates when he said there were small business incentive programs and they knew that there weren't. First off small businesses are not anything that invest \$500,000 initially. Small businesses are something that invest \$30,000 to get going. The only incentive program, which isn't much of one, is for a very big guy. They knew it doesn't really fit in but it does kind of fit in. It was a test. Hopefully they can work forward for the future to try to enact some kind of small business incentive plan for actual small businesses. Mr. Maynard's hotel and the Marriott, those are huge investments. Something like the Shuckn' Shak or different things going down on the boardwalk, those are the small businesses that should be cultivated to bring more business on the island. Hopefully this can be used as something they can grow from.

Mayor Macon made a motion that the Business and Economic Development Committee look at the resolution and come up with some recommendations.
MOTION CARRIED UNANIMOUSLY.

Mayor Macon said he knows there have been a lot of questions about some of the committees but he feels it helps take some of the work off staff. There are some professionals on the committee that have been in business a long time and enable staff to

be more in the review mode than the create mode and this would be one example. Councilman Gilbert stated that they are doing a fine job and if he misspoke during some political issue, it is not his recollection, he apologizes.

MPT Wilcox made a motion to deny the request to take advantage of the capital improvements program. MOTION CARRIED UNANIMOUSLY.

REQUEST TO EXTEND THE CONDITIONAL USE PERMIT FOR ARCADIUS

The town manager said they are requesting a one year extension for the Arcadius CUP to April 12, 2009. The original CUP proposal was approved on October 12, 2004 and has gone through 4 to 5 extensions.

Ron Mariello said he was there to ask for the extension. They continue with the challenges that are well known such as the downturn in the economy coupled with a very difficult credit environment. They are trying to sort out a reorganization of the project and would like to think, if they are given the extension, it will give them time to reorganize, perhaps have the market abate so that they can continue with the plan that was suggested to Council in January.

MPT Wilcox said that as he recalled this CUP was based on the original design and, through various changes, there is a whole new design. If they were going to go forward with anything but the new design, wouldn't they have to come back with a major modification? Mr. Mariello said yes, it would depend on what that is. What was designed in 2005 is very different from what was designed in 2007. They have looked at the market and wonder if it isn't worth another design of perhaps some retail and either a national flag for a hotel but they are not quite sure. If that does occur they will certainly be required to come back to Council for a major modification. MPT Wilcox asked what would be the benefit of extending the CUP to them if the project is going to change. Mr. Mariello said that when they go to the markets, whether investors or lenders, it is very difficult to say they have no use permit. It makes it much easier if they have the CUP.

Councilman Gilbert asked if they were marketing a plan for an investment they are not going to build. Mr. Mariello said no, they have shown investors and lenders the plan that was presented to Council in January 2007. They would love to see that happen, they would like to connect with the Master Plan. Councilman Gilbert said that their concept in 2007 was never voted on so they are going back to October 2004. So the presentation they are showing people now was never put to Council for approval and is only a concept without a permit. Mr. Mariello said the concept they proposed was in accordance with the permit, scaled down from what Council originally saw in 2004 but within the CUP. Councilman Gilbert said he doesn't read that. He reads that they presented a concept but all they got was an extension and they did not want to deviate from the CUP of 2004, that is his recollection and what the minutes support. Tim Owens said it was staff's interpretation after looking at it that they would need a major modification, mainly had to do with the size of the building footprint. If they are going to go back to 2007 they will

need to go through the major modification process and that never happened. The extension would be for the concept presented 2004. Mr. Owens said that the 2004 plan is something they could approve as a minor modification. The expanse of what was changed in 2007 they were taking that as a major modification.

MPT Wilcox asked staff how often they had been contacted by Arcadius about going forward with this project since the September 2007 extension. A member of staff responded by stating, none.

Councilman Gilbert said the area is blighted and feels the plug should be pulled on this project. They still own the property and can come back if they have a hotel concept. It is being marketed because they have a permit which is not consistent with the presentation in January. There have been two hotels permitted and moving forward in the CBD in the time since they first presented it and doesn't feel it serves the best interest of the citizens or the businesses here to keep it alive just for some kind of marketing.

Councilman Johnson said they have a new CUP approval that says you have a two year CUP permit with a possible one year extension. In April it will be 3 ½ years for this project and because of the major modification, it doesn't make sense to continue extending the original CUP.

Mayor Macon said he has been in contact with Mr. Mariello and other owners on several occasions, they are experiencing litigation between the partners and this is no fault of necessarily anyone. It does show a commitment to work through the situation and do something nice at Carolina Beach.

MPT Wilcox said he thinks there is a value in the marketing to have CUP and not start all over even if you have to have a major modification. If it is extended and they can't pull it off, nothing is lost, otherwise they may have brought a great project which would lock into the Master Plan.

Councilwoman Efird agreed with Mayor Macon and feels they need to be given a chance.

Mayor Macon made a motion to extend the conditional use permit for Arcadius for one year. MOTION CARRIED 3-2 (COUNCILMAN JOHNSON AND COUNCILMAN GILBERT VOTED NO).

CONSIDER REVISED QUOTE FOR VIDEOTAPING COUNCIL MEETINGS AND DISCUSS PROJECT IMPLEMENTATION

Councilman Gilbert made a motion to move this to Friday's meeting, March 14, 2008 to look at in detail with the rest of the budget goals. MOTION CARRIED UNANIMOUSLY.

SET A PUBLIC HEARING DATE TO CONSIDER AMENDING THE ZONING MAP TO REZONE:

- Properties located behind the lots immediately adjacent to Virginia Avenue rezoned from Conservation to R-1B
- Properties located at the north end of Carolina Beach and on the west side of Canal Drive rezoned from Conservation to R-1B to correspond with the existing rear lot lines and to eliminate the split zoning of said parcels
- A portion of the 47 acre tract owned by the Town of Carolina Beach rezoned from R-1B to Conservation with said rezoning occurring directly behind and adjacent to the lots on the east side of Oceana Drive

Councilman Johnson requested further discussion and asked staff to show the two maps on the overhead to enlighten the public in attendance what the change is being proposed. This is not for a public hearing, just information. Gary Ferguson showed maps and explained the proposed changes.

Mayor Macon made a motion to set a public hearing for April 8, 2008 at 7:30 p.m. or soon thereafter to consider amending the zoning map to rezone. MOTION CARRIED UNANIMOUSLY.

SET A PUBLIC HEARING DATE TO CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 9 MOTOR VEHICLES AND TRAFFIC, CHAPTER III BICYCLE REGULATIONS, SECTION 9-87 RIDING ON SIDEWALKS PROHIBITED TO CONSIDER ALLOWANCE FOR A BIKEWAY ON HARPER AND ALONG THE BOARDWALK AND DOWN CAPE FEAR BLVD.; CHAPTER 3 ANIMALS AND FOWL, SECTION 3-9 DOGS AND OTHER COMMONLY ACCEPTED ANIMALS AND FOWL ON PUBLIC RIGHTS OF WAY, PUBLIC LANDS, PROPERTY AND BEACHES

Councilman Johnson requested further discussion. He said he understands the bikeway path possibly going up by the boardwalk but he says they are also asking for dogs to be allowed on the boardwalk and asked that dogs be excluded from this amendment.

Councilman Johnson made a motion to approve the ordinance allowing the bikeway and exclude the dog section. Councilman Johnson withdrew his motion.

Councilman Johnson made a motion to not move forward to set a public hearing date on April 8, 2008 as presented. MOTION DENIED 4-1 (MAYOR MACON, MPT WILCOX, COUNCILMAN GILBERT AND COUNCILWOMAN EFIRD VOTED NO).

Mayor Macon made a motion to set a public hearing date for April 8, 2008 at 7:30 p.m. or soon thereafter to consider amending the Code of Ordinances, Chapter 9 Motor Vehicles and Traffic, Chapter III Bicycle Regulations, Section 9-87 Riding on Sidewalks Prohibited to consider allowance for a bikeway on Harper and along the boardwalk and down Cape Fear Blvd.; Chapter 3 Animals and Fowl, Section 3-9 Dogs and Other Commonly Accepted Animals and Fowl on Public Rights of Way, Public Lands, Property and Beaches. MOTION CARRIED 3-2 (COUNCILMAN JOHNSON AND COUNCILWOMAN EFIRD VOTED NO).

Mayor Macon made a motion for a 5 minute recess. MOTION CARRIED UNANIMOUSLY.

REQUEST FOR A CONDITIONAL USE PERMIT MODIFICATION FOR AN OPEN AIR COMMERCIAL PLATFORM/OCEANFRONT RESTAURANT LOCATED AT 101 CAROLINA BEACH AVENUE SOUTH (PIN 313015-54-5527-000)

Mayor Macon invited everyone who wished to speak to be sworn in. At this time, the following people were sworn in: Ed Parvin, Tim Owens, Gary Ferguson, Greg Reynolds, Adam Higgins, Cathy Lane, Donald Motsinger, Joe Harris, Vince Tryer, Bobby McConville, Gary Price, and Alan Pacek. Mayor Macon also reminded everyone that when they step up to the podium to please state their name and address.

Ed Parvin, Senior Planner, stated that this is a request for a modification to a conditional use permit at 101 Carolina Beach Avenue South. It's the lot in front of the Marriott on the southeast corner. The proposal is for an open air commercial platform. The first floor will be a bathroom area, casual dining, sundeck, and beach access way. Your second floor plan will be a kitchen and fine dining and your third floor will be an office, deck, and bathroom.

Going through your changes from the last time you saw this are 1 through 5. Since they have gone to Planning and Zoning, you have the strike through language:

1. Height 42' to 46'4" **50'**
2. Submittal of a seating plan showing ~~300~~ **288** seats
3. Increase in parking from 120 required to ~~144~~ **140**
4. Increase in hours of operation from 8am-11pm (amplified music to end at 9pm) to 8am – 1am (amplified music to end at 12am).
5. Increase in fence height from 6' to 8'

The 11 requirements that are here are required by our ordinance for them to address and are very similar to our requirements for a bar. Going through the parking what has changed is originally they were going to be, as I mentioned, 144 and they've changed to 140. Looking at your parking lots, there are 140 parking places within 500' of this use. Planning staff originally recommended denial. Planning and Zoning recommended

approval. Planning staff recommended staff denial based on not enough parking. You only had 140 and they had 144. Now with 140, TRC recommended approval.

Councilman Gilbert read “parking is currently utilized as public,” but this property is not town owned. Mr. Parvin said right, that’s the lot behind Michaelangelo’s, the dirt lot. It’s not a town owned lot but we traditionally have used that for public parking. Councilman Gilbert asked if we have a lease on that. Mr. Parvin replied that we don’t have a lease. Councilman Gilbert then asked is parking enforced on that lot and Mr. Parvin answered we do have parking enforced on that lot. Mr. Owens added we split the revenues with the current owners but don’t have a valid lease to my knowledge. Councilman Gilbert continued so you split the revenues, do they have a box over there. Mr. Owens replied there is a box over there. We do split the revenue with them. The lease expired two or three years ago and I think there are a lot of heirs that own the property so we’ve never been able to come to an agreement that we can get another lease. Councilman Gilbert wanted to know if Central Parking goes in there and writes tickets which Mr. Owens said they do. Councilman Johnson said but it’s on a month-to-month basis. Councilman Gilbert said oh the lease is on a month-to-month, so we do have a lease. Councilman Johnson replied it’s not a lease. Mr. Owens said we do not have a lease.

Councilman Johnson said my question is how can you include the 60 parking spaces on something we don’t have a lease, not even for a year much less long term and we don’t own. How do you figure that in your calculation? Councilman Gilbert said it could go away tomorrow. Is that what you’re saying? Councilman Johnson said I don’t see how you can do that. I don’t think that’s right and shouldn’t be counted. They do not meet the parking requirements. You’re squeezing in something the town doesn’t even own or have a long term lease on. I don’t understand why you all are doing that. Mr. Owens explained Council has the ability to waive parking. We’ve historically, as he mentioned, used Mac’s lot. If the Council no longer wishes to see the Mack’s lot in the equation we will totally strip it out and never use it. I mean it’s used as public parking now. Granted it might have a short life span so that’s really going to be up to Council to give us direction on that. Councilman Johnson said you’re paying a bill, I think the finance record said previously at one of the other meetings, you all are paying a bill once a month and at any point in time that person might say hey you all are going to have to vacate. They won’t give you a lease and we don’t own it. I don’t see how the town can count on those spaces in their equation. Personally I think this Council needs to direct the staff and remove these 60 spaces from the equation unless in some point in time we obtain them by legal ownership. Mayor Pro Tem Wilcox questioned have we done this before, issued a waiver where this lot came into play within the 500’. Mr. Owens answered we have, to the best of my knowledge yes. Can you help us out here Ed? Mr. Owens said this was approved and some parking was waived. I’m sure we have in the past ... Mayor Pro Tem Wilcox stated so this has already been approved and they are actually reducing their parking. That’s the modification? Mr. Owens reply was no. The modification, they’re changing it from the P&Z proposal. Mr. Parvin clarified they are changing it from the P&Z proposal. They had 144 spaces and they’re reducing that to 140. Mayor Pro Tem Wilcox questioned where were the 60 parking spaces in the 144? They’re the

same 60 spaces right? Mr. Parvin replied right the same 60. Mayor Pro Tem Wilcox continued so Council has already approved that. The modification is to reduce by 4 parking. Mr. Owens said I think the original approval had to do with a certain percentage of the parking had to be on-site. This is their first major modification. I think what he's saying is at P&Z they saw 144 and the applicants' agreed to scale back to 140 in order to hopefully slip within the parking. Councilman Gilbert interjected if I remember correctly the original one they were leasing property over where the old Astor was so I think we were talking about 80 spaces if I'm correct. Mr. Owens agreed it was 80 if I remember correctly. Councilman Gilbert said 80 to 140 now. Councilman Johnson said but they haven't presented the lease, correct me if I'm wrong Gary, they have not presented that lease to you all that they have on either one of those lots. Mr. Ferguson replied no, they have not but again I'm basing our recommendation on the historical precedent that has been set on the Mack's lot. It's been my opinion that Council has looked at that lot more like a public lot than a privately owned lot whether that's right or whether that's wrong that's Council's issue. I'm just saying we historically have looked at that at least that's what I've been told; we've been highlighting it only to bring it to your attention that this is like semi-public, if you will, it's not truly a public parking lot. Councilman Johnson explained I brought this up before when the original CUP came up. I didn't vote for this because I didn't feel like they met the parking because I still say you cannot count these 60 spaces when it's something the town doesn't have a long term lease and they do not own. I don't see how you count spaces like that in the equation. Councilman Gilbert asked is this the ordinance, it may be waived if public parking spaces are adequate to meet the requirement are located within 500' of the use. Mr. Ferguson said that's the ordinance. Councilman Gilbert continued they are public parking places because we don't have a lease on it. Mayor Pro Tem Wilcox said well they're public because it's a public lot, we're using it as a public lot, and we have a pay station down there and we're enforcing parking, so it's a public lot. Councilman Gilbert said okay, so it's an opinion that it's a public lot but it's privately owned. Mr. Ferguson said but we would really like direction from Council on this because it's going to keep resurfacing we know every time a CUP comes up and it would give us clear direction as to how you want us to proceed in evaluating this lot. Councilman Gilbert said you're building a building that could be around for 75 years and 60 parking spaces could go away. Mr. Ferguson replied that's true. Councilman Gilbert continued it's pretty straight forward to me is that if you don't have a long term lease on it how can you actually apply the parking. That's a secondary issue for another day. Mayor Pro Tem Wilcox said it is. It's up to us to solve our parking problem and we need to get on that.

Councilman Johnson said I guess another question I would raise is if you include these 60 spaces and you approve it on that basis, and then next year somebody comes in here for a CUP on that project those 60 spaces go away. Does that void the CUP even though they've already built this building because now they don't meet their required parking. Mayor Pro Tem Wilcox response was if you approved it based on them leasing the Astor lot and they lost their lease does it go away? It was approved before on that basis. Councilman Johnson said I didn't agree with that because I mean...Mayor Pro Tem Wilcox said but it was approved before on that basis. Councilman Johnson said not by me. Mayor Pro Tem Wilcox said this isn't the first project...Councilman Johnson said I

thought it was wrong then and I think it's wrong now. Councilman Gilbert said but they would be required to find another lease for the parking. You wouldn't void the CUP; they'd be required to secure another lease for that many spaces. Mayor Pro Tem Wilcox said if this goes away they would be required to do the same thing. Councilman Gilbert said but I think we need to stop considering these 60. Mr. Ferguson remarked that's what staff would really like direction on. After Ed's presentation, if you could perhaps put this into a motion so we're clear as a staff where you want us to go with this property. We're in limbo right now. Mayor Macon asked is this property still held by the Pate heirs? Councilwoman Efird replied yes.

Mr. Parvin said staff had one additional condition. They do not have loading so we would...since the Planning & Zoning Commission looked at this, we did have a plan for our ordinance for loading, so as an additional condition to the 14 we asked them to submit that loading plan. This is not in your memo; this was an attachment.

Councilman Johnson had one more thing. He said on your CBD public parking summary, it's attached to this, I don't think this is correct because in your town provided public parking lots you've got 106 spaces for the Hamlet. I know that's not correct. Mr. Parvin said that is the Hamlet lot with the proposed projects included. The proposed projects include Park Place and Park Place was going to put a parking deck and provide more public parking. This spreadsheet shows what it would be without Park Place. Ignore what you've got there and look at this, these are current conditions. They are also represented in the memo; you'll see the breakdowns as well.

Councilman Gilbert questioned you are including parking places...I was confused. I've looked at all the CUPs and parking is different on every single one of them with respect to what we have town spaces or not. So you're telling me you're counting, with this approval process, parking spaces that aren't even built. Mr. Parvin said no, this does not include those. We do have that in this summary. That's just another evaluation that we've done if those projects were built but this does not show that. The proposal does not take that into account at all. Councilman Gilbert reiterated I've looked at all these things and they're all different.

Mayor Macon said just for levity how much longer do we have to squat on the Pate property before we actually own it. Mr. Owens replied day-by-day; I think 7 years. Mayor Macon said that was a joke, just kidding. He continued but we definitely do need to narrow the parking down to...if Alan's numbers are correct we do need to nail it down so that it's the same. Mr. Owens told Mr. Ferguson to correct him if he's wrong we did go out and recount including the lot behind Michaelangelo's and there was 140 within a 500' radius which Mr. Ferguson agreed. Mr. Owens continued so we recounted and that doesn't include any future parking or any kind of consideration of the Mac lot going away. Mr. Ferguson said with the future parking, we were just trying to give Council some idea of what public parking was going to be constructed not that we're counting that but we're just looking down the road, looking towards the future and just so you

have a concept in your mind about what public parking would be created down the road if these projects are built. Just as the manager pointed out, we're not talking about counting any of those future parking lots in the equation that you're looking at right now.

Councilman Gilbert said I guess where my confusion is I look at all the conditional use permits that have been approved and parking waivers given and I'm looking at a number parking deficit 148. That's somebody's number or there's a number below it that says 208. The numbers that I've gone through with these memos and try to put it together looking at the history we're like 500 and something in a deficit, which Mr. Ferguson agreed. Councilman Gilbert continued so we're almost double. I guess this is for a different day but I can't see how you can present something to us with all these different numbers in here where it looks like you've underestimated our parking deficit.

A male said Mayor, Council I did want to address since this might be something that can expedite for you all and it's a little bit out of order, we're in negotiations and have been encouraged, we've been trying to address the objections to the original CUP, the CUP modification...the Town Clerk asked the person speaking to state his name.

He apologized and said I am William Wright for the petitioners here and we believe we've got this close to having a negotiated resolution to address all the objections. We're going to get together on the week of the 24th. We ask that this be tabled and have a hearing possibly the next available date. I know you all were tossing around public hearings on April 8th that would address and possibly resolve the issues with the appeal of the original CUP, the CAMA appeal, and any objections from at least Tom's clients' prospective to the modifications that are before you.

Mayor Macon clarified so the petitioner is requesting that we continue this item for future discussion at the April Council meeting. Is that what you're telling me? Mr. Wright answered yes and I guess if we're going to have a public hearing on the CUP we need to set a date to carry this over to that.

Councilman Gilbert asked was this the project that was fast tracked to P&Z and then to us. Was this that one? This was a different one? Mr. Ferguson said that's the one coming before you Friday evening. Councilman Gilbert apologized. Mr. Wright said that's a different matter; I'm sorry. This is the one next to the Marriott, the open air oceanfront restaurant. It's not the Black Horn. Just for Council's purposes, Tom Johnson representing the Marriott, said we just have litigation pending on the original CUP that you're trying to modify here but we've had discussions and we're really close. We're bringing down the principles of my client to sit down and meet and resolve any outstanding issues and we can deal with it all at one time if you prefer. Councilman Gilbert said so this may change again. Mr. Johnson said no. There are other ways for it to change and for us to reach an agreement that wouldn't involve the town or a CUP and that's what we're looking at so we don't have to confuse matters on that. We much rather streamline it and keep the town out of the issues that we have if we can.

Mayor Pro Tem Wilcox said giving how far we've gotten that sounds like a great idea. After the laughter subsided, Mr. Johnson said I just wanted to affirm for that, that indeed I agree and I appreciate William and his clients being willing to give us some time to sit down and talk.

Mayor Macon made a motion to continue this item. Someone from the audience stated something that was inaudible and Mr. Wright replied there still will be a public hearing and you'll still be able to bring your comments. Mr. Johnson said we're addressing some of the issues that the neighbors may be concerned about too because they're similar but it doesn't eliminate their right to the public hearing on the 8th. That will still continue and continue to happen. Obviously the residents that are here tonight to speak know full well that they have the right to speak on the 8th. Mayor Macon said it would still be a public hearing on the 8th. Are you fine with that? The male from the audience spoke again but it was inaudible. Mayor Macon said they're negotiating their lawsuit. Again the male was inaudible. The mayor said you're good to go.

The Mayor said there's a motion on the table to continue this item to the Council meeting on April 8th at 7:30 p.m. or soon thereafter. MOTION CARRIED UNANIMOUSLY.

REQUEST FROM SEAVIEW PROPERTIES, LLC, FOR A MODIFICATION OF A CONDITIONAL USE PERMIT TO ADD 5,000 SQ. FT. OF CONFERENCE SPACE TO THE BRANDED RESORT HOTEL LOCATED AT 1 HARPER AVENUE (PIN 3130-55-7480-000)

Mayor Macon invited all those who wished to speak to be sworn in. Lynn Prusa, Town Clerk, suggested that those speaking for the project to be sworn in first and the Mayor agreed. The following were sworn in: Ed Parvin, Gary Ferguson, Tim Owens, Tom Johnson, Joe Harrison, Duke Hagestrom, Rich Lahrer, Charles Eaves, Michele Connet, Brett Keeler, Adam Higgins, Greg Reynolds, and Russ Maynard.

Mr. Parvin refreshed everyone on the original presentation that was given for this conditional use permit when it was approved. It was a 191 room hotel and there was a relocation of Carolina Beach Avenue North; it was the King's Beachwear, Seaside Inn, and Ocean Plaza site. He showed the proposed location of the hotel. It is in the Central Business District. The recombination is about 40,000 sq. ft. There were no setbacks. They were doing 191 units. The fourth floor is what they're looking at for the modification for the addition of conference space and it's a little over 5000 sq. ft.

Parking: There are 191 rooms and it requires 191 parking places. They are also providing 9 public parking spaces to replace the two police spaces, handicap, taxi, and 8 metered spaces. This is the location of the current public parking.

Your right-of-ways will be changing in the area from a 20' to a 45' and then they vary. CBA North will be proposed at 40'. Closing and rerouting you've got the right-of-way

widths currently on there. They will be rerouting this part of Carolina Beach Avenue North to here.

Mr. Parvin presented some pictures showing the general location of the hotel and the portion that will be closed.

Height: Nothing will be over 115'.

They will have a Type E bufferyard.

Amenities: Along with the pool and restaurant, they are requesting to add the conference space. The decking that is still there will remain.

Lighting: They have a lighting plan that's consistent with our lighting standards.

They originally had asked for 5000 sq. ft. and the Hilton has looked at it and is requesting to increase that to 5632 sq. ft. That's new from your memo. We just found that out today that they'd like to increase it from 300 seats to 310 seats. If you want to break out your calculators or try to follow along and we'll bring you through this calculation real quick; 310 divided by 4 which is our requirement gives you 78 versus what you had. I believe you had 75 and that's times .25. You have the .25 multiplier for your 25% reduction as we allow in our ordinance. That gives you 19½ or 20 spaces waived. So 78 – 20, so the new conference space...they're asking for an additional 58 spaces to be waived. To give you a break down of it all, 191 are required for the hotel with 9 additional for public parking, 25 have been waived for the restaurant, and they're asking for an additional 58 to be waived for 5632 sq. ft. of conference space. There'll be three conference rooms. That will be a total of 83 parking waived.

We have found it to be in general conformity with the Land Use Plan. Your condition #8 will change to 58 parking spaces are waived for the 5632 sq. ft. of conference space.

Planning and Zoning heard this item at its February 21st meeting and unanimously recommended approval. Councilman Gilbert asked Mr. Parvin to say that again. Mr. Parvin said Planning and Zoning unanimously recommended approval at its February 21st meeting.

Mr. Parvin said let me see if I can get this up here. He said then you have their meeting space here and showed the basic layout for the 4th floor: the café restaurant area, atrium area, and then your conference space. After showing this, he said he will take any questions.

Mayor Macon asked Council if they had any questions for Mr. Parvin.

Councilman Gilbert wanted to know if this got approved with a restaurant. Mr. Parvin answered there was a 75 seat restaurant approved with the project and Councilman Gilbert said okay, I just remembered they had an eat-in area. Mr. Owens said there was a

small area and at the last minute I think the change was to allow up to 75 seats and waive 25 parking spaces. Councilman Gilbert said it was like a contingency. If you wanted to put a 75 seat restaurant, so did they actually do that? Mr. Owens said that is what they're proposing I believe. Councilman Gilbert said I am just missing these drawings you're showing me now. Mr. Owens said the original proposal didn't have that it was just more of a breakfast area. Councilman Gilbert said I saw these things for the restaurant and I remember there was a contingency in there but I couldn't remember specifically. Anyway, I didn't have this drawing so I just got a little confused from what I remembered on the original approval but I'm fine.

Tom Johnson, speaking on behalf of the applicant, passed out a revised plan giving Council a better idea and also showing some elevations of what is being proposed.

He again said, I am Tom Johnson for the applicant. He said we listened to what was said last time and are back to you for that. As we went through the process last time, there were some concerns raised about not having a restaurant space and not having meeting space. Now we've come back. We talked about a branded hotel last time and I know a lot of people had concerns about what brand. Well it's going to be a Hilton Garden Inn. The Planning Commission unanimously approved the project. We discussed the fact that the arrangement of the meeting space might change because we were meeting with Hilton the week after that meeting and indeed it did change a little bit. Hilton wanted to get at least the 310 spaces and get the tabletops in there and a ballroom space; and if you'll see, I know it's small but you'll see, the tabletops in the ballroom part or the stage part shown on the map I presented to you. That's why that's changed in order to make that fit and it really only means a change of two additional spaces that we're asking to be waived. In reality if you recall the history of this site, we're really decreasing the parking that's been allocated by building this hotel because the various businesses that are going to be torn down as part of this project were actually allocated more space in the town lots than what we're actually asking to be waived. We're ending up with a better parking situation. In reality, the formula the town uses, and I know we've had a lot of discussions about this, may not truly take into account when you've got conference space in a hotel most of the time figure even 75 to 80% of those patrons of the hotel are the ones that are using the conference space. You're not having outside people coming in as much probably to the degree the town's formula uses but that's what we're using. We understand that and we're asking the waiver in order to comply with the town's formula.

If I may, I'd like to have the architect for the project come up and just explain and go over with you the plan and the elevations that we have in here. These elevations changed somewhat from the original. The footprint doesn't change but the elevations are changing in order to comply with the product that we're putting in being the Hilton Garden Inn. The nice thing we've done and he'll explain is we've added the atrium area which is a nice thing that was not there to begin with and really adds a nice touch, so Joe, if you could come up and share that with the board that would be great.

Mr. Johnson said these may be easier to see and I'll help here and we'll also show the public as well. I'm Joe Harrison and the problem here is we can't both watch this at the

same time so I'll point it out to Council and then we'll turn around. This is the site on the master plan to the right of that public area where they alluded to a Hilton. This is the Hilton; working off the corner of Canal Street and Harper Avenue. The footprint is the same footprint that's been presented previously and that's basically parking on the ground and then outside of the block of these in that area is both entrances to the hotel. We have the lower entrance and parking. As we go up through the hotel, we get to the lobby that was on the illustrated plan a moment ago, which is the lobby floor. That lobby floor when you come up from the lower hotel from the lower lobby of these elevators has an atrium. The reason the plan has an atrium is to pull these rooms out to the outside so that every room has a view of the ocean. Here we are at the water; we want every hotel room to have a view so by pulling these rooms out we now have every room has a view. Some of them might have water front but every room has a view of the water. The atrium yields a nice space; that atrium will be the pre-function space for the conference center and working with Hilton they'd like to have 300 patrons seated. What you see on this plan are tables with 10 people around each table and arranged in a way that you can serve food to these tables while we have a banquet table on the dance floor. This room will accommodate 300 patrons and a head table and that's the change we worked with Hilton to do that. When we finished putting the appropriate spacing around the tables, it came up 5632 rather than 5000 and that's why we're here today. These are the oceanfront rooms and the other rooms are angled so that every room has a view, so we have ocean view and oceanfront rooms. Quickly to go through (inaudible) of this hotel on the side that faces the master plan area of the park we have hotel rooms with the view of the ocean and then we have the café, which is an area where we can have an outdoor bar and grill and that hotel is above parking. There is no back to the hotel so the other side is very similar that faces the marina side. The oceanfront is basically balconies with the rooms above Harper.

Mr. Johnson said we can spread these out or whatever so the public can see it. Maybe we can do that in just a moment. Mayor Macon said why don't we bring them around the front so I think most everybody can see them and Mr. Johnson agreed. Mr. Johnson said so really our main modification is to allow for a more effective restaurant use. We'll be able to serve food; we will be able to have the banquet facility that just wasn't there to begin with. The planning board again unanimously approved it because that's what they've been saying all along with these projects is the need for that space. That's what we're providing and actually the marketing studies that we did showed the real need. I think the master plan process as well has shown the real need for meeting space here on the island and that's what this provides and is in compliance with that plan. We're moving ahead with this. We made the modifications having the discussions with Hilton and taking the steps that we need to take to make this a reality. We're available to answer any questions. We've actually got our builder here as well if there're any particulars about that process that you would like to have the answers to. We're certainly available to answer any questions that anyone may have. I would just like to reserve time to respond to any objections.

Mayor Macon said yes sir and then asked if Council had any questions. **Since there were no questions, Mayor Macon made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.**

Mayor Macon asked if there was anyone who wished to speak and if they hadn't been sworn they would need to be sworn in. He also reminded them to state their name and address.

Duke Hagestrom, 920 Riptide Lane, said the Hilton Garden Inn is a fabulous property. In fact, unfortunately, I spend a lot of time away from home in Atlanta and my home away from home is a Hilton Garden Inn. This year I got 150,000 points and I'm now a Diamond VIP at the Hilton Garden Inn.

Honestly this is a great looking product. The one I stay in Atlanta is fabulous compared to some of the monstrosity buildings around it, it looks very tasteful. It's very classic; it's got a great look. If you contrast it to those big monstrosity buildings around it, it's this nice, quaint hotel. Fabulous amenities when you stay in the rooms. The sheets are great; the linens are great; the atrium's beautiful. They have a great bar and food set up and stuff like that. From what I've seen and what I've seen of the master plan and I've only seen it since it came out just recently, it seems very consistent with what the master plan has to say. It certainly is going to be a shot in the arm for the CBD. We can use all the help we can get down there so it certainly is going to provide that. The public wanted more amenities added. They wanted conference room space; they wanted more eating space. The applicants went and provided that for us so kudos to them for that.

A gentleman just recently berated me on the sidewalk about the fact that he wanted to know what my hours were at the shop and wanted to make sure that he could come over and wanted to know when he could come and get some of our product and then he said you know I really wish you guys were open everyday with much longer hours this time of year. I said well I'd love to do that. Then on the other side of his mouth he said now over here they're going to build this monstrosity of a hotel. I can't believe you guys are selling out and you're going to allow people to build hotels. He wanted restaurants, shops, and things to be open and available to him as a resident but he didn't want to allow some of the hotels and projects that will allow people to frequent those businesses and to allow us to have those additional extended hours. He wanted his cake and eat it too. But I think the public in general has spoken and they would like to see the conference room space, the meeting room space, the food space, and they've done that.

I have to point out also they're projecting \$7,000,000 a year in revenue. Councilman Gilbert you made reference to the deficiency in the tourism fund and continuing to dip into the tourism fund. Seven million dollars a year in revenue equates to a 12% room occupancy tax. It comes out to \$840,000 a year that they are going to be paying in room occupancy taxes. I'm not talking about state or federal taxes. That's \$420,000 that goes towards renourishing our beaches and promoting the county. That's \$420,000 that goes towards replenishing that marketing fund and bringing some money to the beach so we can promote the beach. That's a lot of money.

The parking problem: I would like to argue that our parking problem is that there're only a few summer days where every spot is taken. The parking problem is we've got to have more people; we need to fill up those spots so I think we're okay and this project obviously reduces the number of spaces that have been allocated from a public standpoint. I've heard talk about the intersection. This makes the intersection safer due to the rerouting that was already approved in a different meeting.

I think it's a fabulous project. If not here, then where? If not this project, what project? Please approve this great project.

Rich Lehrer, 106 Charlotte Avenue, said Carolina Beach is in a really dark period and it's going to get darker and I think this is a beacon of light. I don't think we've ever needed anything as much as we need this project. For the amount of space that they have to build this, they brought the whole package. I think anything that any of us can do to help them out is something we should do. This is a very, very important project and Russ has really put himself on the line for this, went way out there and I hope this has tremendous success.

After thanking Mr. Lehrer, Mayor Macon asked if there was anyone else wishing to speak.

My name is Charles Eaves and I live at 1311 S. Lake Park Blvd., Unit #31B. I came here in 1984 after I retired from the DC Police Department as a captain or a watch commander. I bought two condos from Oscar Norris at Ocean Dunes and at Sea Colony. I got a little bit disenchanted here with the not major improvements so I had to rent out my two condos, went back to McLean, Virginia, formed another company, stayed there 12 years, and came back here in 1995 after I sold my new company.

I am extremely excited about what's coming to Carolina Beach. I am extremely excited with the new, intelligent, progressive Council that we have now, all five members and I plan to stay here for my last days. I'm tired of having to go all the way, with the price of gas, to the Sunspree at Wrightsville Beach or the Hilton is under major renovations particularly the restaurant at this time. I don't want to go all the way to Myrtle Beach so I don't have to if everything goes as planned.

Mayor Macon invited people to come up to speak for or against the hotel. No one came forward. **Mayor Macon made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

The Mayor then asked if anyone wished to tackle this motion. Mayor Pro Tem Wilcox clarified the only item we're making a motion on is the waiver of the parking spaces. Councilman Gilbert asked this is a major modification for a conditional use so it would be the same protocol as a regular, right? Mayor Macon agreed that was true. Mr. Owens

added and the waiver part, which Mr. Ferguson agreed. Mayor Pro Tem Wilcox said so the motion is for a waiver of parking under this major modification. Mr. Ferguson said that's correct.

Mayor Pro Tem Wilcox made a motion to approve the waiver for parking under the applicant's major modification of the conditional use permit.

Mayor Macon asked if that covered everything that was needed. Mayor Pro Tem Wilcox asked do we need to go back through all of the specifics. Councilman Gilbert suggested it has to meet conditions 1-4 and then the modification on that, and Mayor Macon said add a consistency statement. Mr. Owens said that's correct.

Mayor Pro Tem Wilcox made a motion to approve the request for a waiver. Do you want to do the Land Use Plan consistency first? Mayor Macon said you can do it as part of your motion, they said we could in the past.

Mr. Johnson clarified, from our application it was for 5000 sq. ft.; we just want to make sure that it's 5632 and 310 seats. Mayor Macon responded we will note the changes that staff made. Councilman Gilbert said what was the 310? Someone replied seats. Mr. Harrison replied 30 tables of 10 and a head table.

Mayor Pro Tem Wilcox made a motion to approve the request for a parking waiver based on its consistency with the specific standards 1-7, general conditions 1-4, recommendations from TRC, Planning, Operations, Police, Fire, and Town Manager and note that from the documents we were given the increased conference space is 5632 sq. ft. to accommodate 310 seating, and the project is consistent with the Land Use Plan:

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

TRC recommendations:

Planning –

1. Amend narrative to reflect seating changes from 250 to 300.
2. Parking: 19 spaces waived. 56 required parking. 81 total spaces waived. 25 waived with original grant order (which included a restaurant). If restaurant reduction is used too, 21 would be waived. Applicant – leave at 25. Amend narrative to reflect parking changes.

Operations – No comments

Police – No comments

Fire – No comments

Town Manager – Not in attendance

STAFF RECOMMENDATIONS:

Staff recommends the following conditions be added to the existing grant order approved on 13 June 2007 if the proposal is approved:

8. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. One parking place is required per room for up to 191 hotel rooms per architectural drawings. Nine (9) public parking spaces shall be provided. 25 parking spaces are waived for the 75 seat restaurant. **58 parking spaces are waived for 5,632 square feet of conference space.** The project may provide up to 210 on-site parking spaces.

Town Council finds it to be in accordance with the provisions of North Carolina General Statute 160A-383, the Town Council does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted land use plan and other long range planning documents.

MOTION CARRIED 4-1 (COUNCILMAN JOHNSON VOTED NO).

REQUEST FOR A CONDITIONAL USE PERMIT FOR A RESTAURNAT LOCATED AT 300 N. LAKE PARK BLVD. (PIN 313011-56-2178-000) AND 302 N. LAKE PARK BLVD. (PIN 313011-56-2267-000), CURRENTLY KING'S BOAT AND FORMERLY BARNACLES RESTAURANT AND MARINA'S EDGE RESTAURANT

Mayor Macon first stated all those wishing to speak may come up and be sworn in. The following were sworn in: Tim Owens, Jeremy Hardison, Jerry Bigley, Greg Reynolds, and Brett Keeler.

Jerry Hardison, Zoning Administrator, said the applicant is proposing to rehab an existing building. It's 7,275 sq. ft. structure to accommodate a 207-seat restaurant. The property was formerly used as King's Boat and Barnacles as a restaurant.

The property is in the CBD and there are no setbacks in the CBD. I'll bring up the site plan. Here is the proposed site plan and the proposed structure. The restaurant will serve steak, fish, and proposes to serve beer and liquor. The restaurant will be open 7 days a week to serve breakfast, lunch, and dinner. Hours of operation are from 6:00am to 2:00am. Trash collection will be shared right here with an adjoining business. The utilities will be minimal. There will be no upgrades in utilities as required by TRC. The footprint of the structure will be the same. One addition that they are having is an 800 sq. ft. roofed top deck that will house some seating and a bar space.

They are projecting 33 parking spaces on site. Parking for the restaurant is calculated as one (1) parking space per three (3) seats. The applicant is proposing 207 seats which does require 69 parking spaces.

There are waiver requirements within the CBD if public parking spaces are adequate to meet the requirement or are located within 500 feet of the use. With the 33 parking spots, currently if you go out there now, there are 29 parking spaces. They are planning on re-striping this parking lot and reconfiguring it to add in adequate handicap spaces, a loading zone, and 33 parking spaces, and also which is nice connectivity to the existing restaurant and keeping that open, which is the use beside it.

They are going to provide a landscaping Type E buffer which is required in the CBD. It is consistent with the Land Use Plan consistency statement.

Before you, you have the TRC comments, the required findings, the general conditions, and staff recommendations. I also just like to add in if Council does choose to waive any parking to just make that part of your motion. I'll answer any questions.

Mayor Macon asked if there were any questions for Jeremy. Council did not have any questions.

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

Good evening Council my name is Greg Reynolds, 711 Canal Drive, Unit A2. As you all know this project has typically been a restaurant since 1979 with the exception of one year when the King's Boat came in. The owners of King's Boat basically came in so they could secure the lease and make this into a restaurant. They didn't realize by doing that it became a change of use. They realize that now.

The last occupant load that we have found was for 399 people when it was Barnacles. We're only opening to 207 and that's including 27 spaces on the rooftop deck.

The parking, we believe, we're making parking better than it's ever been in the history of the building and we are adjacent to the marina parking lot. There's plenty of parking around.

What we plan on doing with this project is to re clad the exterior, and put a new metal roof on it. The whole interior, you probably noticed it as you are driving by this, about six or seven dumpsters full have been brought out of there. The building itself is stripped down to about what the service station used to look like. Remember there was a service station there at one time. On the porch on the right hand side and the garage on the left hand side will stay up in this space. We will keep the porch area the way it is with the exception that we're replacing the glass, we'll put a new roof on it, and just upgrade it so it's still going to be a basic exterior type space with screens of plastic, very similar to the Seawitch.

The entrance of the building is in front of North Lake Park Blvd. We ran two exterior stairways to go up to the 800 sq. ft. deck. The deck you'll see is up on the upper right hand corner. The deck area will actually be for seating. The majority of the service for food and everything will be coming from downstairs and brought up to the people up there. You can only get in to the upstairs from the inside. We will be walling off the area so only on special occasions will we open up for boat traffic.

Based on what the Harbor Village does for us, this building will be a great location or it won't be there. We're anticipating the Harbor Village will take a few years to happen and we're hoping to bring back a restaurant that we have typically had on this corner and bring back first class. We're looking at not as high end of a restaurant as possible. We're bringing in a family of four that can eat for \$20 instead of \$80. We're really going after the family traffic and just a fun place to be overlooking the water. I believe that's the majority of the presentation I had.

Again we feel like we're taking a place that's always been a restaurant and putting less people than it typically had. I'll be glad to answer any questions.

Mayor Macon asked any questions for the applicant.

Councilman Gilbert said looking at the hours of operation on this, is it the intent of your client to meet the alcohol beverage control requirements for a restaurant. Mr. Reynolds said yes, sir. Councilman Gilbert replied outstanding, thanks. Mr. Reynolds said right

now the hours we've gone from maximum conditional use we probably won't be open those maximum hours this time. Right now we have to make sure the breakfast trade will be there. We're hoping with the extension of a public dock area there that we're all talking about we'll have a big trade for breakfast especially in season. Ideally the porch on the Winner boat side will be closed off in the winter time. It will be non-condition space so we have ideas to be able to close off sections of this based on the size of the crowd in town.

Councilwoman Efirm commented that she liked the price of the drinks. Councilman Gilbert added he thought the beer was a little high there so he didn't know about that, and Councilwoman Efirm assured him they were reasonable.

Mayor Macon inquired if there were any further questions of the applicant. Since there weren't, he asked if there was anyone wishing to speak on this matter.

Jerry Bigley said he purchased this property in 1982. What we plan on doing here is bringing it back to what the Marina's Edge was only about 10 times better than what the Marina's Edge was. It's all going to be first class. It's going to be first class run and not only for Carolina Beach but for all of New Hanover County that people will be proud to come to this restaurant. To the other people here now to show that the quality of the work that they do they own the Blue Reef, they also own the Palms up here so you can see by the work they've done there that they're well qualified people. They're mostly in the clothing business but I know just a little bit about the food business so we're hoping that everything is going to go good.

My only comment is of the number one bad looking spot in Carolina Beach is those electric meters right up behind my restaurant. If those are taken out of there and moved down just a little bit to the left, we could have some ocean view dining right from the first floor too, so I think you people should take that into consideration. I appreciate it if you would approve this and I promise it will be well run and something that the town and my great grandchildren will be proud of too. Mr. Bigley said if there were any questions he would gladly answer them.

Mayor Macon asked if there were any questions for the applicant Mr. Bigley. Since there weren't, Mr. Bigley said thank you all very much.

Mayor Macon questioned if we are currently assessing the meter situation. Mr. Owens replied that he did get a cost estimate and it's going to be roughly around \$20,000 to \$25,000. We talked to a contractor today about it, so it will be \$20,000 to \$25,000 to accomplish.

Brett Keeler, 615 Carolina Beach Avenue North began as you know I own a restaurant in the CBD, and proposing to put an oceanfront restaurant in the CBD and I think that this is a wonderful thing because we're far from saturation in that area in Carolina Beach.

Last year it hurt us immensely as a town and as business owners by the fact that the Seawitch was gone and that the Hula Grill was gone because there's only so many times that you can go to any restaurant. There's only one in town you have your options and once you run out of options in an area then your options become bigger and you talk about either going to Wrightsville or you talk about going to Wilmington. I think it's just a great thing that they're making another use of the old Barnacles building. Hopefully the town can look at the little error in judgment of the leaser's switching over their use to a retail that didn't. From all intensive purpose, probably did no business last year and two for the impacts hopefully you guys can look at that so that they really don't get killed on something that was an error in judgment and since 1979 has been a restaurant to kill them again with impact fees would just...I don't think it would really be that good for the town. But I think this project is a great thing and we need more restaurants and we need more things to do in this town.

Mr. Bigley added, from his seat in the audience people think we have a parking problem in this town. In 34 years, I've never seen a parking problem. The only parking problem we have is we don't have enough people to take in the parking. We used to have the Beach Music Festival here and people would park across the bridge and walk over here to come to the Beach Music Festival. Our only problem is to get it up here longer to take care of the parking.

Mayor Macon asked if anyone else wished to speak in reference to the restaurant's conditional use permit. No one came forward to speak.

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

Mayor Macon said I'll entertain a motion.

Councilman Gilbert made a motion to approve the conditional use permit for a restaurant located at 300 N. Lake Park Blvd. with respect to action items 1-9, conditions 1-4, Planning and Zoning, Technical Review Committee recommendations 1-13, required findings 1-7, and staff recommendations 1-12, waive parking at 36, and finds that it is consistent with the Land Use Plan.

Mayor Macon said there is a motion on the table, and he asked if there is any discussion? Councilman Gilbert said the problem isn't our existing parking the problem is the parking that we've permitted over the last 5 years that haven't been built yet. If you look at the potential deficit let's say 5 years from now, we're going to be in a deficit over double of what we already have. I just did some quick math. When everything's built, if it gets built, we're going to be in deficit over, if my math is right, about 631 spaces. We don't have a parking problem now only that we have allotted double the spaces that we actually have, so until somebody brings a parking deck...so again a couple of people have mentioned that yes we don't have it now but if everything's built out we certainly will have some challenges and we've all probably traveled to those places that you drive around and don't have it. Anyway

just a comment of conscience just you wait. Hopefully we'll be there that day. Councilwoman Efird said we'll have a parking deck by then.

Mayor Macon said we are looking at the tax increment financing and that is definitely something that has been discussed a potential for a parking deck on one of our lots. That would be besides the upgrades and the street improvements that can happen. They are definitely one way that we could increase our parking with a parking deck.

There's a motion on the table, he continued and then asked any further discussion.

Mayor Pro Tem Wilcox said I think the town is the one that needs to bring the parking deck. If we sit around and wait for somebody else to do it, we're kind of backing up.

The TRC recommended the project to be submitted to the Planning and Zoning Commission with the following comment:

Planning –

1. Submit all new drawings showing the intended use of the outside deck to include size, bar, number of seats, etc.
2. Parking handicap and access aisles must meet building code requirement
3. Parking space on the north east side must have adequate ingress and egress
4. Loading zone – must keep a 12' x 45' space open for a loading zone or address the following via a waiver for the loading zone to Town Council: 1) Time loading will take place, 2) size of the truck used for loading, 3) duration of loading period, and 4) location of the loading area.
5. Show dimensions of parking aisle and parking spaces.
6. Submit renderings and signage plan.
7. Update narrative as necessary (seats, parking spaces, any waivers, deck square footage, etc.)
8. Provide height of the roof-top deck.
9. Provide appraisal.
10. Recombine the two parcels.
11. Provide sample menu.

Fire –

12. No exit for outside level 1 deck?

Police –

13. Install signage, “no drinks past this point” located on 1st level deck after exiting staircase to upper deck.

Operations – no comments

Town Manager – Not in attendance

Planning & Zoning Motion

Moves to recommend approval of this project with staff recommendations...and that it is consistent with the Land Use Plan. Motion carries unanimously (6 to 0).

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. Restaurant proposals are allowed with the approval of a Conditional Use Permit in Central Business District zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

- 1) Seating shall be limited to 207 seats.**
- 2) A sign permit must be obtained for any change in signage or any new signs proposed on the property.**
- 3) All permits required by Federal, State, and Local Agencies including the Health Department must be submitted prior to Certificate of Occupancy.**

- 4) Any modifications to this proposal (as deemed significant by the Director of Planning or his designee) will require new application for conditional use permit.
- 5) Grease trap will have to be approved by the Town of Carolina Beach prior to Certificate of Occupancy for restaurant use.
- 6) Refuse collection agency agreement shall be submitted prior to issuance of a building permit.
- 7) Lot must be combined before issuance of a certificate of Occupancy
- 8) Project must meet or comply with the Town Flood Damage Prevention Ordinance.
- 9) 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. A landscaping plan shall be submitted prior to a building permit being issued in accordance with the Town Code.
- 10) 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.
- 11) 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.
- 12) Install signage, “no drinks past this point” located on 1st level deck after exiting staircase to upper deck.

Mayor Macon called for a vote. **MOTION CARRIED UNANIMOUSLY.**

PRELIMINARY BUDGET HEARING FOR FY 08/09

Mayor Macon said the Budget Committee has a list of five recommendations which he gave to Council and would like for them to think about prior to the budget hearing. Tim Owens said they typically have a preliminary budget hearing prior to the budget process for public input. He reviewed non-profit organization requests. Councilman Johnson asked Mr. Owens if he had received anything from the organizations that would show justification for requests for increase of funds. Mr. Owens said he would contact them and ask why.

Councilman Gilbert made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert recommended inviting the members of the Budget Committee to attend the budget workshop.

Jack Fetner, 1004 Carolina Beach Avenue South, presented the recommendations: (1) return to base minimum for water to 1,000 gallons; (2) look at merit plan as a bonus as opposed to an on-going expense with a pool in each department as an incentive for employees to do better; (3) concerned about the gas that is being purchased which is around \$190,000 per year range which equates to around \$1,000,000 miles - gas cards may be a good way to control gas usage, limit them so usage is more easily identified, possibly go back to bid for gas or wholesale purchase using the town's pumps; (4) concerned about the preliminary recommendations in the budget currently being considered are raising the expenditures by about \$2.3 million from this year to next year which equals 15.8%. They are working on recommendations for Council.

Councilman Gilbert requested Council be sent the e-mail with attached notes from the Budget Committee to help understand the recommendations.

Councilman Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to discuss in detail the requests on Item #20 at the budget workshop and formal applications for large sums of money requested to include financial statements to be able to understand the bulk of where the money is being handed out and the revenue flow in the community. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING AND DISCUSSION REGARDING DRAFT NCDOT ENHANCEMENT GRANT ENTRYWAY PROJECT

Tim Owens gave Council a copy of plan. He said the plan has been refined and cost estimation is around \$240,000. The plan includes some work in middle of Dow Road, Dow Road and Lake Park intersection and he is not proposing to do that at this point until the Master Plan has been developed. He continued to review the plan with Council. In conclusion, Mr. Owens said he would like to move forward on the project which has been funded for a long time. He does not have a timeline yet but will get it this week. He anticipates being in a position to plant this fall but probably not before this summer.

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

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

Mr. Owens said the plan does not need a motion. He will move forward with it and will take back any comments to the landscape architect. Mayor Macon said it would be nice to proceed with it before fall. The Town Manager said he would try to do that.

**CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 8
LICENSES AND BUSINESS REGULATIONS TO ADD ARTICLE XI OUTDOOR
PERFORMANCES AND EVENTS**

Gary Ferguson said he received a request from the town manager regarding outdoor performances and events that would allow for more expeditious approval. Staff prepared an ordinance and it was reviewed by the Planning and Zoning Commission for their recommendations. Mr. Ferguson went over the highlights and proposed ordinance.

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

There being no comments, Councilwoman Efirm made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

MPT Wilcox made a motion to approve Ordinance No. 08-729 (*Exhibit 2*) with a change to item (2) under Major Event adding the word “and” after 100 persons. MOTION CARRIED UNANIMOUSLY.

**CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 12
DEVELOPMENT STANDARDS FOR PARTICULAR USES TO REEVALUATE
THE 11 CONDITIONS ASSOCIATED WITH BARS, TAVERNS, AND
CABARETS IN THE CENTRAL BUSINESS DISTRICT**

Jeremy Hardison said the Planning and Zoning Commission was requested by Council to evaluate the regulations pertaining to bars and give a recommendation specifically on the 200 foot rule between bars and taverns. The 2003 ordinance was prepared based on data gathered from ordinances in other states at that time. The recommendation from Planning and Zoning Commission was to strike out “no new bars or taverns shall be permitted within 200 feet of another bar or tavern”, that requirement would be exempt in the Central Business District. Mr. Hardison said the distance was measured from closest property line to closest property line. Councilman Gilbert said that under no. 7 the statement, “The CBD shall be exempt from the 200 foot of another bar/tavern requirement” should be added.

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

Donald Motsinger, 107 Carolina Beach Avenue South, said he does not necessarily agree. He recalls when they were having so much trouble at the boardwalk, people were setting up and opening a bar during the season and in the off season they were either irregularly open or not open. So what you had were a lot of people hiding in places and people were

afraid to go down there and it is where it started getting the term “the sleeze place”. He does agree that they went too far, they literally tried to destroy the boardwalk. He doesn’t know what footage it should be, he doesn’t think zero is a good number. If you want to set up to have a bar every building or every so forth, that’s what you are going to have. If you don’t learn from history, you will repeat and that boardwalk district, if you can remember, a lot of people said, “I was afraid to take my children down there. I wouldn’t be caught dead down there after dark.” It wasn’t just the bars per se, but that is what everybody tacked it on. There were a lot of vagrants and so forth down there at that time also, so you have to be careful about the ones that you draw in. If it’s working, let’s don’t break it.

Cathy Lane, 115 Carolina Beach Avenue South, said she lived in Wilmington in 1973 and remembers the Carolina Beach we have all talked about here. They would go down to Carolina Beach on a Saturday night, get a dozen donuts and take them home. We didn’t stay for the very reason of the numbers of bars back in the mid eighties, it was a serious problem. You guys know, some of you have been here a long time. What does bother her is completely doing away with the ordinance. She doesn’t know if 200 feet is the answer but doing away with it is the answer either. If it is every other building or cutting the distance in half or whatever but don’t do away with it. She thinks when the comment is made that we don’t have the problem now that we had in the eighties, well, guess why. Because you developed an ordinance that kept it from happening, kept more from being in there and it has cut down on what she has seen as the bad reputation that the beach had at that time and we have come a long way she thinks in working out of that hole that they dug in the mid eighties. So please don’t do away completely with the ordinance. Looking at the Chief of Police she thinks that if you do away with the ordinance, he’s going to come ask you for additional help because if you go back to where you were in the mid eighties, based on everything is bigger now, population, more people or whatever, the situations we saw down there then could be magnified. Please don’t throw it out the door, try to come up with something that is more of a compromise between the distance that it is now and zero. She would hate to see the progress that they have made up to this point completely negated by throwing it out.

Councilman Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to adopt Ordinance No. 08-730 and change under number (7) the 200 feet of another bar or tavern to 100 feet. The town manager said that would be a significant change and would require it to be re-advertised.

Councilman Gilbert amended his motion to also send it back to Planning and Zoning Commission and wordsmith the language to 100’ and give staff direction to go out and pursue a tested interpretation for measuring the distance between bars.

MPT Wilcox said that the definitions for bar, tavern and restaurant should also be looked at. The town manager said they will come back on how we measure it. MPT Wilcox said to consider measuring from centerline of the property.

Mayor Macon called for a vote. **MOTION CARRIED UNANIMOUSLY.**

Councilman Gilbert made a motion that this ordinance is consistent with the Land Use Plan. MOTION CARRIED UNANIMOUSLY.

Councilman Johnson asked for clarification if the 200 feet was reduced to 100 feet in the CBD and are you keeping the 200 feet from established church or school and Councilman Gilbert said yes.

**CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 23
DEFINITIONS FIGURE 2 GO CONSIDER CHANGING HOW FRONT YARD
SETBACKS ON NON-RECTANGULAR LOTS ARE MEASURED**

Jeremy Hardison reviewed proposed ordinance change. He showed an overhead of how measurements are taken on a non-rectangular lot currently with a tangent line and the proposed amendment measuring the setback from the property line.

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

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

Councilman Johnson made a motion to approve Ordinance No. 08-731 (*Exhibit 3*) and that it is consistent with the Land Use Plan. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to reconsider the motion made on Item #23 (Amending Article 12 Development Standards for Particular Uses to Reevaluate the 11 Conditions Associated with Bars, Taverns and Cabarets in the Central Business District). MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to rescind his previous motion on Ordinance 08-730 . MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to approve Ordinance 08-730 (*Exhibit 4*) to amend item no. (7) to read, “No new bars/taverns shall be permitted within 200 feet of an established church or school nor within 200 feet of any residential district nor within 200 feet of another bar/tavern. A new bar/tavern as used herein shall be defined as a bar or tavern that did not exist on May 13, 2003. In the CBD the measurement shall be 100 feet distance from another bar/tavern.” and that it is consistent with the Land Use Plan. MOTION CARRIED UNANIMOUSLY.

CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 16 PLANNED UNIT DEVELOPMENTS TO CONSIDER ELIMINATING THE 2 ACRE MINIMUM LOT SIZE

Ed Parvin made the presentation, said the problem with two acres limits the use of the Planned Unit Development (PUD) Ordinance. A problem in the past was the use of PUD to approve triplexes, quadraplexes in residential neighborhoods that were traditionally single-family duplexes. That language was removed and now if a PUD is being done you can only do the use permitted in that district. He reviewed some examples of PUD's under two acres. Some issues staff has encountered with this ordinance are that it needs to be rewritten, longer than it should be and the language is very confusing. Staff would like to do a rewrite of the ordinance. Planning and Zoning Commission requested that before adopting any change to PUD, they would like the rewrite done first and consequently recommended denial of the removal of the 2 acre minimum.

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

Gordon Beckhart, 1338 South Fort Fisher and property owner in Carolina Beach, said he thinks two acres squashes the thing they saw at the Kirkbride's and feels there are some real opportunities in leaving the PUD language in there. Anyone who has a PUD needs to come before Council and get it approved so he thinks you can eliminate the double stacked houses that you might be worried about. He also owns seven duplexes bordered by Tennessee, Mackerel and Pinfish and he would love to be able to utilize the PUD and beautify that area, put a swimming pool, some amenities for the tenants and turn those into townhouses. Clearly it doesn't increase density because they are already built and already exist so he wouldn't be creating density, he would be creating amenities and beautifying the property. He feels eliminating the two acres opens up some possibilities.

Terry Hamm, 111 Virginia Avenue, he feels Council knows where he stands and he knows where they stand. He said they went through a long fight two years or more of which everyone was involved - Town Council or P&Z, to stop multiple family homes from going into a single family neighborhood in the R1-B zoning district. To them that meant one house, one lot. They won, they had a unanimous vote from P&Z with one member being recused and they had a unanimous vote from Town Council with one member being recused. As a result of that three things happened - you put a minimum square footage on the PUD so no one would try to use a PUD to sneak a duplex into a single family neighborhood or build two houses on one lot in a single family neighborhood. What Kirkbride was fine but that was in the R1 district surrounded by condos and duplexes already. Were not like that. The three things that happened - you put a minimum square footage on the PUD, the research on the map issue, which is still to be debated and comes up Thursday night about the zoning issue, took the rear lots of Virginia Avenue out of a buildable status basically by putting them in the Conservation and you took PUD's out of the R1-B. He sees now that this Council already two of those three you already turned them around. You want to take the Conservation and put them back to R1-B, that's probably going to happen. You're going to take the minimum

square footage off the PUD's. The third step is going to be to put the PUD's back in the R1-B and that is not right. We proved to Council through the quasi-judicial hearing, they don't belong there, the residents don't want them there and the developers involved with that now have a different interest because you are sitting on this board. He asks that they consider that before you take the minimum square footage off of the PUD.

MPT Wilcox stated that he is not involved in anything or doing any development down there so you miss stated with that. Secondly, he has no intention of putting PUD's back in R1-B.

Mayor Macon said that unless he built those duplexes with a two hour separation, you will not be able to call them townhouses.

MPT Wilcox made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to follow the Planning and Zoning Commission's unanimous decision to recommend denial for the proposed text amendment and deny Ordinance 08-732, and that it be sent back to staff for a rewrite of the entire ordinance for future review.

MPT Wilcox said that what was advertised for P&Z and what went to P&Z was to make a decision on the two acre rule. He has no problem with them making a recommendation to staff to go back and rework the ordinance, but he would have liked to see them make a recommendation on the two acre rule followed by a recommendation to staff to rework the ordinance. He has a problem with the two acre rule, and feels it is unrealistic.

MOTION DENIED 2-3 (COUNCILWOMAN EFIRD, MPT WILCOX AND MAYOR MACON VOTED NO).

MPT Wilcox made a motion to adopt Ordinance No. 08-732 (Exhibit 5) adding the word "none" under Sec. 16.6, and he finds that it is consistent with the Land Use Plan. He asked that staff rework the PUD language and bring it back to Council. MOTION CARRIED (COUNCILMAN JOHNSON AND COUNCILMAN GILBERT VOTED NO.)

CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 16 UTILITIES, ARTICLE IV STORMWATER MANAGEMENT ORDINANCE

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

Councilwoman Efird made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to adopt Ordinance 08-733 (*Exhibit 6*). MOTION CARRIED UNANIMOUSLY.

RECESS MEETING

Councilwoman Efird made a motion to recess the meeting to March 14, 2008 at 7:30 p.m. MOTION CARRIED UNANIMOUSLY. The meeting recessed at 12:04 a.m.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

Approved: _____