

**MINUTES OF THE LAND USE PLAN PUBLIC HEARING  
OF OCTOBER 17, 2008 OF THE TOWN COUNCIL  
TOWN OF CAROLINA BEACH**

**October 17, 2008**

The Town Council of the Town of Carolina Beach met in a special session for the Land Use Plan public hearing on October 17, 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; and Councilwoman Pat Efird. Also present was the Town Clerk Lynn Prusa. Councilman Alan Gilbert and Councilman Jerry Johnson were absent.

Mayor Macon called the meeting to order.

***PUBLIC HEARING - CONSIDER AMENDING THE 2007 CAMA LAND USE PLAN BY ADOPTING RESOLUTION NO. 08-937***

Gary Ferguson made the presentation. He stated that this is basically a rerun of the meeting of August 22, 2008 at which they had some difficulty with regard to Division of Coastal Management concerning an advertising and noticing requirement. On August 22, 2008 Council approved the amendment. On September 24, 2008 it went to the Coastal Resources Advisory Council at Sunset Beach and they approved it by unanimous vote. It then went on to the CRC on September 25, 2008 and it was denied again because of a failure they said on the part of staff not to include language concerning written objections to this Land Use Plan amendment before it can be sent to Mr. Mike Christenbury who is the Division of DCM CAMA representative for our region. The current advertising notification in the Star News was published on September 16, 2008 and in the Island Gazette on September 17, 2008, October 8, 2008 and October 15, 2008 for the meeting this evening. The current policy states that, "Building height shall be defined as that distance measured from the highest appurtenance on the structure to:

- i. The front street line.
- ii. The nearest front street line where there is not an adjacent right-of-way.
- iii. An average of each front street line on through lots."

Policy #32 reads, "The Town policy on height for Commercial 2 shall require no commercial structures to exceed 115 feet. Any structure with residential units shall not exceed a maximum height of 50 feet unless the one-to-one rule is applied not to exceed 60 feet. The Town will undertake a master planning effort with ample public participation in the Commercial 2 area and other areas that tie into the Commercial 2 and Boardwalk Area." The town has done this. The purpose of the LUP amendment is to accommodate 10 additional feet of building height for hotels in the C-2 future Land Use Classification map by raising the maximum building height from 115 feet **including** appurtenances to 115 feet **excluding** appurtenances. He showed the area affected on the overhead. The proposed policy is the same as the existing policy except for the last

provision which says: Hotels - appurtenances ten (10) feet or less in height shall be exempted from the height measurement. Policy changes will accomplish the following:

1. Maintain heated space or occupancy area to a maximum height of 115 feet.
2. Restrict the applicability of this allowance to only hotels in the C-2 Designation; and
3. Restrict the height of appurtenances to a maximum of only ten (10) feet above the permitted maximum height of 115 feet.

He showed five examples of large structures in Carolina Beach: Courtyard Marriott - 136 feet, Pelican Watch - 120 feet, Golden Sands - 75 feet, Harbor Oaks - approximately 120 feet and Atlantic Towers - 110 feet. He showed a rendition of what the Hilton Garden Inn will look like. The top line of the structure is the additional 10 feet of appurtenances. Support for the amendment includes: It is consistent with the Master Development Plan adopted by the Town Council on June 24, 2008. The Master Development Plan suggests building heights of +/- 130 feet. It is consistent with the 2007 LUP Core Goal to revitalize the local economy and make it sustainable. It is consistent with the following 2007 LUP policies, Policy #22: Promote and encourage rules that insure the compact pedestrian oriented nature of the Town's historic center - the Boardwalk. Policy #26: The Town shall consider new economic development and redevelopment projects that support a resort-market niche. It is consistent with the Zoning Ordinance. It is consistent with the newly and unanimously adopted zoning amendments for hotels which excludes appurtenances 10 feet or less in height from the height measurement which were adopted on September 9, 2008.

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

Jack Lynch, 1515 S. Lake Park Blvd., said he can't imagine anyone being against this project and it is admirable that they were here this evening to attend the public hearing as well as so many people here to help support the project. This is a great project. It is another reason to be proud of Carolina Beach. It will bring jobs, meeting space, an oceanfront restaurant, it will bring another reason to build something at the Boardwalk and he just wanted to say, "Thank you for what you are doing and please approve it."

Charles Eaves, 1311 S. Lake Park Blvd., Unit 31B, said that apparently two of the Council members have the flu but he will continue. Honorable Mayor and Council Members, it is imperative for Carolina Beach that the Hilton is approved and built as soon as possible. Due to our bad economy, we will not be receiving the grant money we have received in the past. Carolina Beach must have additional room tax provided by the upscale people who would use the Hilton complex. We need extra funds for paving the streets in Carolina Beach, restoring our beaches due to erosion and water/sewer improvements. We must all try to work together and not delay this important project any further. Due to revaluation, our real estate taxes have doubled. Why can't we allow the upscale people to pay through room tax some of the revenue needed by Carolina Beach.

I would like to remind the Council that Brunswick Forest has just purchased an additional 5,000 from Weyerhouser for the baby boomers who will be retiring in 2010. We have the closest, oceanfront hotel just 20 minutes away. St. James is just 6 miles from the Southport Ferry, then 4 miles to Ft. Fisher and there are now 2,000 occupied homes of upscale owners and they are still building. These are the reasons we need a second upscale, oceanfront, quality hotel in Carolina Beach. Wrightsville Beach has three upscale complexes. Why can't we have at least two? We thank the Council for any help they can render in this important matter.

George Connett, 1321 Cabo Court, said he was here the last time for this and he thinks it is very, very important for the health of the Boardwalk and the health of this town to approve all these things that are needed for the Hilton. He thinks without it we are going to be set back probably a good 5 or 6 years. To go forward and get this thing moving he thinks is the right thing to do.

Tom Campbell, 314-1 Columbia Avenue, Carolina Beach, said that the three guys who have spoken already keep talking about how this is for the Hilton and he realizes it will facilitate getting the Hilton built but this just makes sense to him. A 10 foot area for appurtenances, what does not go against the overall height of the building just makes good sense and he thinks that is a progressive step for this town to take to approve that. Not just for the Hilton but for all future projects that we have in the future.

Michelle Connett, 1321 Cabo Court, said she just wanted to say that they are talking about 10 feet. Ms. Connet said that she is just over 5 feet tall and that is two of her. The best gift she ever got was a stepstool so, in the scheme of things, she doesn't think they are talking about a whole lot to get this thing on the ground.

Tom Johnson, 2501 Blue Ridge Road, Suite 150, Raleigh, NC, said he won't say but a couple of things. He knows we have been through this before and we're having to come back through this again and Gary, quite appropriately, pointed out why we did because of some provisions that needed to have been included in the notice that were not initially. He has to say that staff went above and beyond in making sure that that was done properly the first time and Carolina Beach is not the only place that's had these kinds of difficulties before. When we went before CRC at the last meeting, we made clear, and I think it was very much clearly heard by CRC and DCM staff, that there is a problem in the way the rules are written now, that they need to be clarified. Towns such as Carolina Beach and other coastal towns need more direction from DCM and CRC with respect to the process it needs to be followed. Substantively, there was no issue whatsoever. DCM staff was very much supportive of the fact that the decision had been made by the town. That it substantively was consistent with the Master Plan and the Land Use Plan. So that was not even an issue. He just wants to make that clear. It takes a lot of time and effort for them to come up here on a Friday night. This is the second Friday night this has occurred in order to comply with something that really and truly was not very clear. He wanted to thank the Town, Gary Ferguson, and Tim Owens. Everybody has been supportive of carrying forth the Council's direction from last time. He would ask that they go forward again and approve it with the additional language that they needed to

include. They thank them for the support they have gotten so far to this point and he just wanted to make that clear.

Mayor Macon said he would like to point out that this does not affect the Town Manager. He is somewhere in Germany.

Frederick Fisher, Drill Shell Lane, said he is in support of the Hilton. It is a great asset to the people who are putting the money in there to build it. He wishes them well. What he is disappointed with though is that the people who own the Hilton sanctioned the people who are trying to keep them from building it by supporting the environmental and all these regulatory laws that add thousands and thousands of cost to it. If you want to be in lockstep with the people who are trying to put us out of business, support them. Otherwise, he wishes them all the best.

Susan Baum, 923 Coastwalk Lane, said she is in total support of the Hilton. She thinks we need it for our tax base, for the upcoming of our Boardwalk Makeover because we need something to anchor the other end, and we need the upcoming vision that they have. Right now we are pretty low key down there and she feels that would change totally if we had another business down there that would be able to bring in corporate people.

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

Lynn Prusa asked if it was mentioned why Councilman Gilbert and Councilman Johnson were not in attendance. She went on to say that Councilman Gilbert was delayed on returning back from Atlanta and Councilman Johnson is out of town due to his mother-in-law having surgery.

**Councilwoman Efird made a motion to adopt Resolution No. 08-937 (*Exhibit 1*) for the second time.**

Steve Coggins, Town Attorney, made the recommendation that the Councilman Gilbert and Councilman Johnson are excused from attending today.

**Mayor Macon made a motion to excuse Councilman Johnson and Councilman Gilbert from voting. MOTION CARRIED UNANIMOUSLY.**

Mayor Macon said he did receive one letter in opposition to Council adopting any changes to the LUP from Birdie Clark, 233 Florida Avenue, Carolina Beach which he asked be made part of the record (*Exhibit 2*).

**MOTION CARRIED UNANIMOUSLY.**

Mayor Macon said they had one more order of business. Councilman Johnson and Councilman Gilbert could not be here but they felt it was very important that we deal with this particular situation. Mr. Ellington was approved by the Town Council to hold a

skateboard park event in Carolina Beach. Part of this approval was based on Mr. Ellington providing \$2 million dollars general liability insurance. He provided the town with a certificate of insurance dated October 15, 2008 for \$1 million per occurrence and \$2 million general aggregate. Mr. Ellington was notified by the Town Clerk on October 15, 2008 that their requirement was for \$2,000,000 per occurrence. Mr. Ellington claimed that he was never told that he was required to carry \$2 million per occurrence. Mr. Ellington states that the purchase of additional insurance would cause financial hardship and he would have to cancel tomorrow's scheduled event if the town does not relieve the additional \$1 million per occurrence requirement. Mr. Ellington is asking Council to consider this matter. Councilman Gilbert states here: I, Councilman Alan Gilbert, being absent from the special meeting held on October 17, 2008 do hereby agree that it is essential to discuss and act on the request made by Mr. Ellington immediately. I was notified of the urgency of this matter by the Town Clerk via telephone and hereby give her permission to sign this written waiver of notice on my behalf. Councilman Johnson said the same thing.

Steve Coggins said it is not a matter that requires further notice and you may take appropriate action.

Mayor Macon said Mr. Ellington got \$1 million per occurrence. We do have the waivers that the contestants will have to sign to participate.

**Councilwoman Efirm made a motion to waive the \$2,000,000 per occurrence and only require \$1,000,000, and that waivers be required and signed.**

Steve Coggins asked what is the protection for the town in lieu of the coverage that was discussed? Mayor Macon said basically it is a \$1 million dollar liability per occurrence instead of \$2 million.

MPT Wilcox said that every other activity that comes to this town, including having to have arts and crafts booths which is a relatively low impact sport, has to have \$2 million worth of insurance. He doesn't think that he, in good conscience, waive \$1 million dollars worth of protection for the town and citizens because someone failed to do what they were going to do. He has a problem with that. It sets a bad precedent and it creates an additional liability for the town on a high risk sport. If someone goes out there and gets their head knocked in and is a quadriplegic for the rest of their life, we just pay for that and he can't support that.

**MOTION CARRIED 2-1 WITH MPT WILCOX VOTING NO.**

**Mayor Macon made a motion to go into closed session for a legal matter in compliance with NCGS 143-318.11(a)(3)]. MOTION CARRIED UNANIMOUSLY.**

**A motion was made by Mayor Macon to return to open session. MOTION CARRIED UNANIMOUSLY.**

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

Respectfully submitted,

Lynn N. Prusa  
Town Clerk

Approved: \_\_\_\_\_