

Joel Macon
Mayor

Alan Gilbert
Councilman

Jerry Johnson
Councilman



Dan Wilcox
Mayor Pro Tem

Pat Efird
Councilwoman

Timothy Owens
Town Manager

TOWN OF CAROLINA BEACH
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Planning & Zoning Commission Minutes

May 8, 2008

7:00pm

ITEM #1 Call to Order & Roll Call 7:02pm

Chairwoman McQuillen calls the meeting to order.

Commissioners Present:

Sarah Efird
Betsy McQuillen
Jim Miller
Jim Rees
Shawn Underwood

Commissioners Absent

Bill Parker
Greg Reynolds

Staff Present: Gary Ferguson – Planning Director, Ed Parvin – Senior Planner, and Mary Grady – Permit Technician

ITEM #2 Approval of the Minutes 7:02pm

April 10, 2008 – Ms. Efird moves to approve the minutes as presented. Mr. Rees seconds. All ayes.

ITEM #3 Staff Report on Recent Council Meeting(s) 7:04pm

Mr. Ferguson provides a brief presentation on Town Council's motions and votes at the April 8, 2008 Town Council meeting.

ITEM #4 Public Discussion 7:07pm

Cathy Lane, 1115 Carolina Beach Ave S – She wants security cameras installed near the beach access on Hamlet Ave because the area, especially underneath the surrounding buildings, attracts a great deal of activity; unfortunately, some of it is negative activity such as vandalism.

ITEM #5 Text Amendment – Consider amending the Zoning Ordinance to increase allowances for governmental signs in order to provide more opportunity for the Town to advertise activities, events, and charitable causes that will ultimately benefit the well-being of the Town

Applicant: Town of Carolina Beach

7:14pm

Ed Parvin presents his memo

Summary of the Request:

The Town is considering an allowance for governmental signs that would provide more opportunity for Carolina Beach to accomplish the following three goals:

1. The Town wants to ensure that citizens are informed and aware of emergency events, hazardous areas, and other safety concerns such as: unimproved accessway boundaries, hurricane evacuation routes, denotations for shoreline points where access is hazardous, etc. For safety concerns, the Town may want the sign to be out of harmony with the surrounding area to ensure the message is understood by the viewer. For example, a hurricane evacuation sign would most likely be placed in the right-of-way where it can be easily read by the public.
2. This sign allowance would allow for an increase in knowledge of Town events, festivals, revitalization efforts, and charitable causes that will ultimately benefit the well being of the Town. For these events, the Town would want to install signage in locations that are most beneficial in helping ensure there is awareness of the activity, and understanding the what, when and, where the activity will occur. The type, location, and size of these signs may not be easily pinned down in our regulations. For instance, there is an array of events that could occur where signage may not be placed within the parameters of a lot with specific size and setback requirements. Some examples may include, but not limited to, the beachfront, Carolina Beach Lake, Town Marina, and the Boardwalk area.
3. Establish a “Wayfinding System” containing coordinated and comprehensive information allowing people to navigate their way through unfamiliar territory. As listed in the Carolina Beach Master Development Plan: “The Wayfinding plan should define gateways and features and should develop a thematic directional signage that emphasizes the Town’s identity and directs people to the Town’s attractions.” By design these signs will be located near right-of-ways and intersections to help vehicular and pedestrian traffic find points of interest.

Staff is proposing to allow Governmental Signs with no limitations or restrictions and which may be placed in any zoning district in Town. The assumption for this allowance is that we, as a Town, would not jeopardize the aesthetics of our community simply to broadcast our message. Instead, we would be reasonable in the size, placement and duration of the type of signs we would install.

Current Allowances:

One of each type of sign listed below is permitted by our ordinance. Our ordinance has the following allowances for public signage:

TYPE OF SIGN	SIZE	LOCATION
Public Information Signs	limited to (6) square feet in size and (8) feet in height	CBD, NB, HB, MB-1, I-1, T-1, MF, and MX
Special Event Signs	limited to 20 sq ft with a maximum height of 5 feet	CBD, HB and MB1 zones

The allowances for public information signs were done for governmental bodies and non-profits to have an off premises directional sign. When this was presented, it was the desire of local churches that are not on a main road but have nearby access to have this allowance. Very few government or nonprofits organizations can meet the criteria of this ordinance. The requirements are listed in Attachment B.

Special event signs are limited to the same criteria as a temporary banner sign. The only exception is the approval is not limited to 4 weeks, but by a specified time as approved by the Town Manager and/or Town Council.

LONG RANGE PLANNING

The 2007 Land Use Plan (LUP) talks specifically about the need for signage in areas that identify hazardous conditions or areas closed to the public. Although the Town's Hazard Mitigation Plan does not address the need of signage during emergency events such as hurricanes, staff believes there should be an allowance as the need to post evacuation routes, hazardous areas, or other emergency information may be essential to maintain safety.

The Carolina Beach Master Development Plan places a large emphasis on a revitalized Central Business District that will cater to special events and festivals. Flexibility in allowance for signage to promote these events may help with the overall success of the activities being conducted to promote the Town and the economic success that our Town desires. Although no direct statements exist in the LUP supporting government signage, many statements do exist that discuss promoting a revitalization effort and diversification of the local economy.

Finally, the LUP discusses the need to have a uniform system of signage that helps people in the area recognize areas of interest such as public access, pedestrian ways, and vista points. These ideas are not only consistent with this text amendment, but also the "Wayfinding System" that is described in the Carolina Beach Master Development Plan.

OPTIONS FOR CONSIDERATION:

OPTION 1: Maintain existing regulations:

- (a) The Town may be forced to violate zoning rules when faced with emergency situations that make signage necessary.
- (b) Ability to promote Town sponsored events through signage that would be limited to the restrictions of public information signs and special event signs.
- (c) The ability for the Town to implement the Carolina Beach Master Development Plan's Wayfinding System would be severely limited.

OPTION 2: Allow Governmental Signs throughout Town

This option will give the Town the flexibility it needs to ensure our community is safe, prosperous, and easy to navigate for tourist.

TRC Recommendations

The Technical Review Committee met on April 14, 2008 and had no issues with allowances of government signs.

Staff Recommendation

Planning Staff has reviewed our existing ordinance allowances and needs as addressed in our long range planning documents. We recommend adoption of Option 2 to ensure these goals are successful. Language supporting this recommendation is listed under Attachment A.

ATTACHMENT A

TABLE 11-1

SIGN TYPE	ZONING DISTRICTS											SETBACK	Special Provisions	
	P = Permitted + Max. Allowable Sq. Ft./Height													
	CBD	NB	HB	MB-1	I-1	T-1	R1	R1-B	R2	R3	MF	MH		
Governmental Signs	P	P	P	P	P	P	P	P	P	P	P	P		<i>m</i>

m. Size, location, and verbiage of these signs shall be approved by the Town Manager or his/her designee.

Definition

Governmental Sign A sign provided and erected by a governmental entity which typically promote: (1) the health and safety of the community; (2) Town sponsored events; (3) a public wayfinding system; and (4) any other Town activities as deemed appropriate by the Town Manager.

ATTACHMENT B

Public information sign. Sign provided and erected by a governmental entity or non-profit organization, which typically gives direction to governmental or community institutions, amenities, or displays regulations or notices.

Public information signs. Erected by the applicable governmental body or non-profit organization, i.e. church, club, lodge, historic place etc. having permanent locations within the planning area. Permanent locations shall include public or private sites for standing meetings of clubs or property owned by a recognized church or denominational body. All directional or informational signs erected by a non-governmental agency shall be subject to the following restrictions:

- (1) Signs shall not exceed six (6) square feet in size nor eight (8) feet in height (top of panel).
- (2) Signs shall not be illuminated.
- (3) Signs shall be designed and constructed to withstand wind pressures and load distribution as specified in Section 1205 of the NC Building Code as amended.
- (4) Sign lettering shall not exceed four (4) inches in height.
- (5) Sign content may include name and address of organization, logo, directional arrow, and meeting times. No commercial business or product shall be advertised.
- (6) Signs shall only be allowed at major highway intersections and shall not be located in a public right-of-way nor block visibility at any intersection.
- (7) The organization being promoted may not be visible from the location of the sign.
- (8) Up to three (3) non-profit sign panels (each for a different organization) may be placed on a single location. A minimum distance of five hundred (500) feet shall be established between non-profit signs.
- (9) Any non-profit informational sign falling into disrepair will be removed by the town and a fee of fifty dollars (\$50.00) will be charged to reclaim the sign.

Special event signs. Special event signs displaying a special community-wide event such as "Community Fishing Tournament", school or civic events and/or festivals subject to the following provisions:

- (1) Event sponsored by a non-profit organization.
- (2) Limited to a specific time.
- (3) Requires approval of the town manager and/or town council.

Commission Questions

None

Public Comments

None

Commission Discussion

Ms. McQuillen thinks this is a great idea. She thinks the banner signs after crossing the bridge look tacky. Mr. Ferguson explains that the Town has been awarded a landscaping grant, and much of the money from it will be allocated to that area, thus signs will most likely not be allowed there after the landscaping is completed.

Motion

Mr. Underwood moves to recommend approval of Option 2, to allow governmental signs throughout the Town. Mr. Rees does not mind the Hazard signs or the Way-Finding signs, but he has concerns about the Town-sponsored signs as aesthetics are in the eye of the beholder. Mr. Parvin says each of the other communities he researched had a different plan. Mr. Ferguson explains that if complaints were to come in about a Town sign the Town would address them immediately. Ms. Efirid seconds. All ayes. **Motion carries unanimously (5 to 0).**

ITEM #6 Presentation, Discussion, and Recommendation concerning the proposed Ocean Hazard Area of Environmental Concern (AEC) setback rules as proposed by the Division of Coastal Management (DCM) 7:26pm

Gary Ferguson presents his memo

The Division of Coastal Management (DCM) is proposing significant rule changes that may affect all properties located in the vicinity of our oceanfront. I have attached copies of the most recent and revised rule changes (March

27, 2008) as well as DCM's public comments and their recommendations to the Coastal Resources Commission (CRC). Also included is other background information on this issue. Below is a very brief summary of the proposed rule changes.

1) **Setbacks**

Since the establishment of CAMA the oceanfront setback has been principally based on two factors: the long term erosion rate and the size and use of a proposed structure. The current rule for Carolina Beach would be determined by multiplying the erosion rate which is two feet per year times 30 which has generally been considered the life of a mortgage for a small structure or single family house. The point of measurement is usually based on the First Line of Stable Natural Vegetation (FLSNV). Therefore in Carolina Beach the oceanfront setback for small structures (less than 5,000 sq ft) is 60 feet west of the FLSNV. In addition and currently the CRC saw a need for large structures over 5,000 sq ft or any non-residential structure to meet a setback of no less than 120 feet or twice the small structure setback rate. This setback has been modified when erosion rates are greater than 3.5 feet per year.

With the advent of beach nourishment being utilized more often along our coast as well as the trend to construct larger single family and multifamily structures on the oceanfront, the CRC instructed DCM to re-evaluate the oceanfront setbacks. Two major changes are now being proposed. First, in determining setbacks, the use of a proposed structure (i.e. single family residential or commercial) will no longer enter into or effect the setback requirement. Secondly, the size of the structure will be the sole determinant in how the setback is measured from the FLSNV. The setbacks will be graduated beginning with structures of less than 5,000 sq ft which still must meet the 30 year times the shoreline erosion rate for oceanfront setback purposes. Buildings between 5,000 sq ft to 10,000 sq ft will require a setback of 60 times the erosion rate. These additional setbacks increase as the building size increases up to and over 100,000 sq ft with a maximum corresponding setback of 90 times the shoreline erosion rate.

In reviewing this new rule I have identified the following "pros" and "cons" for your consideration.

Pros:

- The size of a structure and not the use of a structure is to a large extent a function of whether or not it can be easily moved. Examples such as Shell Island in Wrightsville Beach and the Sea Ranch in Kill Devil Hills demonstrate the need for greater setbacks for larger buildings. Should large buildings threatened by the erosion fall onto the public beach the magnitude and cost of the clean-up effort will likely be extreme.
- The proposed rule does not affect swimming pools or detached (cosmetically attached) decks which are permitted within the oceanfront setback as long as they do not damage the frontal or primary dune.
- Large-scale linear infrastructure (roads, boardwalks, sewer lines, etc.) will only require a setback of 30 times the erosion rate (this is a decrease from the current rules which require 60 x the ER)
- Total floor area calculations for setback determinations will not longer include structurally attached, roof-covered porches and/or decks (although the roof lines of said structures must meet setback)
- Communities undertaking a large-scale, long-term beach fill project may pursue a static line exception that allows limited development (2,500 sq ft or less) on currently unbuildable lots providing that said development meets the appropriate setback from the stable and natural vegetation and is no farther oceanward than the landward-most adjacent building
- Communities undertaking a large-scale, long-term beach fill project may pursue a static line exception that allows large-scale structures >10,000 sq ft to be exempt from the increased setbacks in the proposed rule language (graduated setback factors of 65, 70, 75, 80, 85 and 90 for structures between 10,000 and 100,000 square feet)

Cons:

- The new rule provides no incentives for property owners not to build right on the oceanfront setback line and if the proposed structure is 5,000 sq ft or less no change or improvement from the current rule will have occurred.
- The setback formula is too conservative when compared to other hazardous events: Wind and snow-loads are based on a 50 year event while flood plain management regulations are based on a 100 year event. Historic and proposed setback rules are based on 30 and 60 year time frames. Building design and engineering for coastal areas has greatly improved as well. The over arching concern is, "What is the acceptable level of risk" for oceanfront development threatened by erosion?

- It has been noted that the erosion rate is less than two (2) feet per year for more than 50% of the North Carolina coast. Adding greater building size setbacks based on exaggerated rates of erosion may cause larger structures to downsize for no sound or scientific reason.
- If this new rule was applied to Carolina Beach it would more than likely reduce the size of redevelopment projects and make some Town approved projects unbuildable (i.e.: Fairfield Inn) as well as make CAMA approved projects nonconforming even before they break ground (i.e.: Hilton)
- The total number of nonconformities created by this rule, if it were applied to Carolina Beach, is estimated to be 35 and this only includes buildings greater than 5,000 sq ft.
- Graduated setbacks for larger structures may make some structures non-conforming unless Carolina Beach pursues a static line exception from the CRC (in which case the larger setback factors would not be applied because of the Town's large-scale, long-term beach fill project)
- Application of the setback to structures based on size and not use will require single-family homes greater than 5,000 square feet to be set back twice the distance of current regulations (60 x ER versus 30 x ER); single-family homes currently are exempt from any setback greater than 30 times the ER
- Elimination of cantilevering into the setback will decrease the total floor area by limiting development to within the buildable footprint (i.e., landward of the oceanfront setback while also meeting Town's streetside and side setbacks on parcel)

Given these pros and cons to the proposed rule and recognizing that beach nourishment or what is sometimes called "beach fill" projects are occurring along our coast more frequently, DCM has incorporated exceptions to these graduated setback rules. What this means is that for communities like Carolina Beach that 1) have a construction and maintenance plan prepared by the Army Corps of Engineers for their fill, 2) have identified sources of compatible sand, and 3) have a funding source for the design life of the project, then these communities will be exempt from meeting the graduated setbacks. This exception is based on an approved petition that the Town must submit to the CRC for their approval. If approved they can utilize the original 30 and 60 multipliers based on the size of the structure. In no case will a hotel, for example, have to meet a oceanfront setback greater than 120 ft (2feet erosion rate times 60) in Carolina Beach. This is a critical issue for Carolina Beach and because of this exception, staff supports this new rule as it will be applicable to those communities that do not have or support beach fill projects.

2) **Cantilevering into Setbacks**

For reasons that are not clear, DCM has allowed cantilevering into the oceanfront setback. When it was first proposed years ago only a minor allowance was granted, however, this allowance became precedent-setting and a few developers took this concept to the extreme. Engineering 20ft and 25ft cantilevered buildings over the oceanfront setback line has occurred and puts in question the reasonableness of this allowance. Under the proposed rule, DCM will prohibit this practice.

Pro

- Prohibiting cantilevering will likely result in safer and more conventionally designed buildings.

Con

- Eliminating this allowance will result in more unbuildable lots.

3) **Infrastructure Setbacks**

Initially when the new rules were being drafted, DCM took the position that "linear infrastructure" particularly street and roads that were over 5,000 sq ft in size should be required to meet the large structure setback of 60 times the erosion rate. After several public hearings and input from the stakeholders, DCM has decided to relax the rule and allow this infrastructure to meet only the 30 multiplier or for Carolina Beach a 60 foot setback from the static line. We should support this as it keeps in place the current rule and will not put in jeopardy our Boardwalk area from becoming any more nonconforming.

Consistency Statement - Land Use Plan Consistency

In reviewing the 2007 CAMA Land Use Plan we find the DCM proposal to be consistent and in general conformity with our plan. This is however contingent upon Carolina Beach meeting the "static line exception"

criteria as outlined in the proposed rule change. This exception will not be determined until the Town petitions the CRC for this allowance. Please see the included Land Use Plan Consistency matrix.

Summary and Recommendations

Given the revised rules and additional supporting information it appears that Carolina Beach will not be terribly harmed by this proposal. You may have issues with the prohibition of any future cantilevering as well as the static vegetation line; however, assuming Carolina Beach will be eligible for a “static line exception” allowance which we have been told is more than likely, the benefits of this proposal appear to outweigh the negatives and we therefore support the revisions.

Jeff Warren, Coastal Hazards Specialist who was instrumental in drafting these rules, has offered to meet with Town representatives on May 20, 2008 for the purpose of reviewing and explaining the significance of these rules. He plans to attend the Kure Beach Town Council meeting at 6:30 that evening but would be happy to meet with us around noon that same day.

In addition, the Town Manager has established a meeting on July 8, 2008 (5:00 pm) here at Town Hall and has invited other communities to attend to hear and learn more about this rule change from DCM. Following this meeting, the CRC is planning to hold a regional public hearing on the proposed rules (this meeting is pending review of the proposed rule by other State agencies and the publication of the language in the State Register by June 15th).

---End of Memo---

Commission Questions

Mr. Underwood asks if this is driven by platted lots that at some point have become submerged; Mr. Ferguson answers no. He further explains that when part of someone’s oceanfront lot is filled, then the owner’s lot of record no longer is “oceanfront property.” Rather, it becomes adjacent to the Army Corps of Engineers’ easement. Mr. Ferguson mentions that the only new rule that could potentially hurt the Town is that single-family houses over 5,000sf in size would now have to meet the large structure setback of 120ft – as far back as the Marriott sits. Staff supports these rules, which support the Town’s hurricane storm mitigation efforts. There was originally concern over the Boardwalk area having to meet the 120ft setback, but CAMA has determined that it only has to meet the 60ft setback, and thus the Boardwalk will remain conforming. Mr. Underwood asks what P&Z’s function is with this; Mr. Ferguson explains that the Town Manager would like P&Z to provide a recommendation on whether the board supports these rules or not. Ms. McQuillen asks if the Town will have to go before CAMA regarding the static vegetation line; Mr. Ferguson explains that there is a requirement that communities that have long-standing beach nourishment/fill projects will still have to go before the Coastal Resources Commission and “petition” the CRC for the exemption allowance. Ms. McQuillen asks how long it will take the Town to get this exemption; Mr. Ferguson answers that there will be no difficulty in getting it. Ms. McQuillen says that as long as the Town can get the static line pushed through quickly, then she does not have a problem with these rules. Mr. Underwood’s concern is whether or not the two projects approved by Town Council in the CBD would be allowed at their approved size under these new guidelines. Mr. Ferguson answers that they will, with the fill. The Commissioners and staff continue to discuss the importance of the federal funding for the beach front, as well as the affordability for the Town. Ms. McQuillen likes the proposed rules, but still has a concern over the static line.

Recommendation

Ms. McQuillen would like to delay making a recommendation until the Commissioners have had a chance to meet with Jeff Warren on May 20th. Mr. Underwood still has concerns over the “hope” of an exemption for the static line in the CBD. Mr. Rees has concerns over the financing. The Commissioners agree to revisit this agenda item at their June meeting and make a recommendation at that time.

ITEM #7 **Discussion and Recommendations for an updated Standards of Practice**

7:57pm

Mr. Parvin presents the staff’s recommendations for the SOP

General Provisions

A. **CREATED**

A Planning and Zoning Commission for the town is hereby created under the authority of G.S. sections 160A-361-160A-363. (Code 1977, 2-7121)

B. PLANS

In all preparation of plans, the Planning and Zoning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality. All plans submitted shall be made with the general purpose of guiding and accomplishing coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare. Plans shall promote as well, efficiency and economy in the process of development, including, among other things, adequate provisions for traffic; the promotion of safety from fire and other dangers; adequate provision for light and air; the promotion of the healthful and convenient distribution of population; the promotion of good civic design and arrangement; wise and efficient expenditure of public funds; and the adequate provision of public utilities and other public requirements. (Code 1977 2-7026)

C. GENERAL RULES

The Planning and Zoning Commission shall be governed by the terms of Article 19 of G.S. Chapter 160A (section 160A-360 et seq.). All commission members shall thoroughly familiarize themselves with the provisions of this statute. (Code 1977 2-7023)

D. STANDARDS AND PRACTICE

The Planning and Zoning Commission shall fulfill its commission through: (1) ethical standards consistent with the mission and values of the Department of Planning and Development; and (2) practices and procedures so set forth in the Planning and Zoning Authority and Standards of Practice adopted January 26, 1989 *and as subsequently revised*). All commission members shall thoroughly familiarize themselves with these standards, procedures and practices.

MISSION STATEMENT: Our focus is respect and integrity as we serve the public in planning and developing their properties through educating, guiding, assisting, and overseeing the town's rules and regulations. We provide services to maintain a sustainable community. We exist to help preserve the community's character while working with the town's growth, needs, and changes. CORE VALUES: **Respect:** We treat others with fairness, dignity and compassion. **Knowledge:** We work to maintain a thorough understanding of the Town's operations and procedures. We value ongoing training to help us better serve the community. **Integrity:** We hold ourselves accountable for our actions and we adhere to moral and ethical principles.

Commission Membership

A. MEMBERSHIP; TERMS; VACANCIES

- 1) The Planning and Zoning Commission shall consist of *seven (7)* members who shall be persons of recognized experience and qualifications, and shall hold no other official position. The members shall be appointed by the Town Council. The Zoning Administrator shall be an ex officio, non-voting member of this commission and shall attend all meetings for the purpose of providing technical assistance when requested by the commission.
- 2) Members of the Planning and Zoning Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously.
- 3) Members may, after public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the Town Council.

B. OFFICERS

- 1) Chairman The Chairman shall be elected by the voting members of the commission. The term of the Chairman shall be for one (1) year, such term ending on June 30th of each year;
- 2) Vice-Chairman The Vice-Chairman shall be elected by the voting members of the commission. He/she shall serve as acting Chairman in the absence of the Chairman, and at such times have the same powers and duties as the Chairman. The term of the Vice-Chairman shall run concurrent with that of the Chairman.
- 3) Secretary The Secretary shall be appointed by the Director of Planning and Development of the Town of Carolina Beach. The Secretary, subject to the direction of the Director of Planning and Development, shall keep all records, shall conduct all correspondence of the commission and shall generally supervise all clerical work of the commission. The Secretary shall keep the minutes of each meeting of the commission. These shall show the records of all important facts pertaining to every meeting and hearing, every resolution acted upon by the commission, and all votes of members of the commission upon any resolution or other matter, indicating the names of members absent or failing to vote. State Law references – Planning Agency, G.S. 160A-361 et seq., 160A-387. (Code 1977 2-7024)

C. Fulfillment of Duties

Each commission member shall become thoroughly familiar with the current Carolina Beach CAMA Land Use Plan, the current Town of Carolina Beach Zoning Ordinance and the current Town of Carolina Beach Zoning Map.

Each commission member shall exercise due diligence of their duties by preparation and familiarization of issues before the commission ***and by adhering to a policy of attendance adopted by the Town Council for appointed Boards and Commissions.***

Meetings/Hearings

A. MEETINGS

The Planning and Zoning Commission may meet at least once each month in a regular meeting, and may call such other ~~special meetings and public hearings~~ as it deems necessary.

- 1) Regular Meetings Regular meetings of the commission may be held on the ***second Thursday of each month at 7:00 p.m.*** in the Council Room of the Town Hall; provided, that if the Chairman so directs, meetings may be held at other locations or times as required.
- 2) Special Meetings Special meetings of the commission may be called at any time by the Chairman. At least twenty-four (24) hours notice of the time and place of special meetings shall be given, by the Secretary or Chairman, to each member of the Commission; provided that this requirement may be waived by a majority of all the members.
- 3) Cancellation of Meetings Whenever there is no business for the commission, the Chairman may dispense with a regular meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.
- 4) Quorum A quorum shall consist of five (5) ~~four (4)~~ members of the commission.
- 5) Conduct of Meetings All meetings shall be open to the public as required by law. The order of business at regular meetings shall be as follows:
 - ~~(a) Roll Call~~
 - ~~(b) Reading/Acceptance of previous minutes~~
 - ~~(c) Reports of Committees~~
 - ~~(d) Unfinished Business~~
 - ~~(e) New Business~~
 - a. Call to Order and Roll Call
 - b. Reading/Acceptance of previous minutes
 - c. Staff Report on Recent Council Meeting(s)
 - d. Public Discussion

- e. New and Unfinished Business
 - f. Non-Agenda Items
 - g. Adjournment
- 6) Vote Except as otherwise specified in this chapter, the votes of a majority of those members present shall be sufficient to decide matters before the commission, provided a quorum is present. In the event of a tie vote for an item on the agenda requiring a simple majority vote, the item shall be automatically may be tabled to the next scheduled meeting with approval from the applicant. The Planning and Zoning Commission shall forward its recommendations to the Town Council within sixty (60) days after the meeting of the Planning and Zoning Commission's final action. Failure to submit a recommendation within this period shall be deemed a favorable recommendation. (Code 1977 2-7025, Ord. No. 87-225, 5-12-87) State Law references – Meetings of public bodies, G.S. 2143-318.9 et seq.; executive sessions, G.S. 143-318.11.
- 7) Absence of Chairman and Vice-Chairman In the event that the Chairman and Vice-Chairman are absent from the meeting, the quorum of the Commission by simple majority vote shall appoint a member of the Commission as presiding officer of the meeting.

B. PROCESS FOR REVIEWING TEXT AMENDMENTS, CONDITIONAL USE PERMITS, AND SUBDIVISIONS

- 1) Any person with relevanee comments to the items discussed hearing may appear or be represented.
- 2) Order of Meeting Hearing:
 - a) Chairman gives statement of case, reading from agenda
 - b) Staff introduces case and provides overview and staff recommendations
 - c) Chairman opens Public Hearing
 - d) Applicant makes a presentation ~~presents evidence and arguments~~ in support of his/her applications
 - e) ~~Persons in favor of granting the application present evidence and testimony in support of application (5 minutes per person)~~
 - f) ~~Persons opposed to granting application present evidence and testimony against the application (5 minutes per person)~~
 - g) Period for public comment
 - h) ~~Applicant presents rebuttal and/or cross examination of those opposed; all questions shall be directed to the commission(max. 5 minutes total)~~
 - i) ~~Those asked questions by the applicant are allowed to respond(max. 5 minutes total)~~
 - j) Chairman closes public hearing
 - k) Commission provides determinations for pertinent evaluation criteria ~~for each required finding.~~
 - l) ~~Commission offers any additional discussion.~~
 - m) Motions and votes.
- 3) Manner of Addressing Commission; Time Limit:
Each person addressing the Commission shall step up to the podium, give his/her name and address for the record, and shall limit his/her remarks to five (5) minutes. Additional time may be granted by the chairman. All remarks shall be addressed to the Commission as a body and not to any member thereof. No person, other than the Commission and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Commission without the permission of the Chairman. No question shall be asked of a member of the Commission or staff except through the presiding officer.
- 4) Meeting Etiquette:
Members of the audience ~~at public hearings and meetings~~ shall observe the following rules of conduct while the meeting is in progress:
 - (a) Attendees shall not display signs or any similar type of written

- communication or device that may obstruct the view of citizens, cause injury, or affect the overall presentation of the item at hand.
- (b) Attendees shall not talk to other members of the audience.
 - (c) Attendees shall not approach the podium unless invited to do so by the presiding officer.
 - (d) Attendees shall not engage in any behavior that is not in keeping with proper and courteous conduct.
 - (e) Attendees shall not cheer, jeer, applaud, or express of approval or disapproval of comments made by any speakers or any actions taken by the Commission.
 - (f) No attendee shall make personal, impertinent, or slanderous remarks, nor otherwise disturb the order of any Commission meeting.

The Chairman shall take whatever action is necessary to ensure that these rules are observed and the meeting proceeds in an orderly fashion.

IV. ZONING: CONDITIONAL USE PERMITS

A. PURPOSES

Conditional Use Permits add flexibility to the zoning ordinance. Subject to high standards of planning and design, certain property uses are allowed in several districts where these uses would not otherwise be acceptable. By means of controls exercised through the Conditional Use Permit procedure, property uses which would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

The duly adopted zoning ordinance sets forth the uses that may be established, as a matter of right, in each of the districts, and specifies various lot dimensions and space requirements that must accompany each established use. Some land uses, however, have a particular impact on the surrounding area that cannot be predetermined and controlled by general regulations. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development, their establishment shall not be as a matter of right, but only after review and approval as hereinafter provided.

The conditional uses may be established ~~after a public hearing held in accordance with the provisions for hearing on amendments to this ordinance and~~ after Town Council approval of the conditional use ~~subsequent to~~ after the recommendation of the Planning and Zoning Commission. ~~Subsequent to a conditional use approval,~~ The use of all land and structures pertaining to the conditional use shall be utilized in accordance with the conditions specified by the conditional use permit as granted by Town Council.

B. ADMINISTRATION OF REQUIREMENTS FOR CONDITIONAL USE PERMITS

Conditional Use Permits may be issued only by the Town Council for the uses enumerated ~~in this article~~ in the zoning ordinance, and after Planning and Zoning Commission review and makes recommendations.

The owner(s) of all the property included in the petition for a Conditional Use Permit shall submit an application to the Zoning Administrator. Such application shall address all of the requirements requested by the town. Upon receiving such an application, the Zoning Administrator shall give notice of the meeting in accordance with the same advertisement and notice requirements as laid out in the zoning ordinance for Town Council. ~~of a public hearing on the application, in the same manner required by law for the hearing of an amendment to this ordinance.~~

The Town Council shall hold a public hearing at which all interested persons shall be permitted to testify, prior to reviewing the application for the Conditional Use Permit.

~~The Planning and Zoning Commission shall forward its recommendation to the Town Council within sixty (60) days after the meeting at which the application is heard. Failure to submit a recommendation within this time period shall be deemed a favorable recommendation.~~

Upon receiving the recommendation of the Planning and Zoning Commission, the Town Council shall consider the application and said recommendation and may grant or deny the Conditional Use Permit requested. The Conditional Use Permit, if granted, shall include such approved plans as may be required. In granting the permit the Town Council shall find:

- 1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan 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 Town Land Use Plan and Policies.

~~In granting the permit,~~ The Planning and Zoning Commission may recommend, and the Town Council may designate such conditions, in addition and in connection therewith, as well, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the Conditional Use Permit or on the plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicants for the Conditional Use Permit, their heirs, successors, and assigns, unless otherwise established by the Town Council in its action to approve the Conditional Use Permit request.

If the Planning and Zoning Commission recommends the disapproval of the Conditional Use Permit, ~~and if the Council denies the permit,~~ each body the board shall enter the reasons for its action in the minutes of the meeting ~~in and~~ which the action is taken.

~~No appeal may be taken to the Board of Adjustments from the action of the Appeals from Town Council action in granting and denying of a Conditional Use Permit shall be subject to review of the superior court. Any such action by the Town Council shall be considered as the equivalent of action on a proposed zoning amendment and shall be renewable only in the same manner as action on a proposed amendment.~~

In addition to the specific conditions imposed by the regulations ~~of the Zoning Ordinance in this article~~ and whatever additional conditions the Town Council deems reasonable and appropriate, conditional uses shall comply with the height, yard, area, and parking regulations for the zoning district in which they are permitted unless otherwise specified.

In the event of failure to comply with the plans approved by the Town Council or any other conditions imposed upon the Conditional Use Permit, the permit shall immediately become void and of no effect. No Building Permits for further construction or Certificates of Occupancy under this Conditional Use Permit shall be issued. Also, all completed structures shall be regarded as ~~non-conforming~~ illegal uses subject to the provisions of Article ~~18~~ 19 of the Town's Zoning Ordinance; provided, however, that the Town Council shall not be prevented from thereafter rezoning said property for its most appropriate use.

Where plans are required to be submitted and approved as part of the application for a Conditional Use Permit, *major* modifications of the original plans may be authorized by the Town Council after review and recommendation by the Planning and Zoning Commission.

V. **Conduct of Members and Staff**

A. REPRESENTATION OF APPLICANTS OR APPELLANTS

No member of the board, or its staff, shall represent applicants or appellants on matters on which the board is to make determinations. All members shall act in accordance with the adopted policies for appointed boards and commissions.

B. CONFLICT OF INTEREST

No member of the board shall participate in any case where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of appointed boards providing advice to the town council shall not vote on recommendations regarding any case where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. In this situation the member identified as having a potential conflict shall step down for the duration of the case. The member may remain in the audience and will be eligible to address the board as a citizen of Carolina Beach when the case is open for public comment. No staff member of the board or any agency serving the board shall prepare or present arguments or reports, or attempt to influence decisions of the board, in any case in which he/she has similar interest.

CHAIRMAN McQUILLEN WANTS TO DISCUSS INCLUDING SPECIFIC EXAMPLES OF CONFLICT OF INTEREST

C. CHAIRMAN TO BE NOTIFIED OF CONFLICT OF INTEREST; ACTIONS BY CHAIRMAN

As soon as any board member, or staff member of any agency serving the board, becomes aware of any potential conflict of interest in any case to come before the board, he/she shall notify the Chairman (or acting Chairman) of the particulars. When the Chairman finds that conflict clearly exists, he shall disqualify the board member from acting in the case and cause the Secretary to enter the circumstances in the record and to make arrangements for such alternate services as are required. **SHOULD THERE BE ALTERNATES?**

Where the Chairman (or acting Chairman) has reasonable doubt as to whether the facts and applicable law indicate a degree of conflict justifying disqualification or excuse from service, he shall seek advice from counsel to the board. If counsel advises that, under the circumstances reported and applicable law, conflict appears to exist, the Chairman shall proceed to disqualify or excuse as provided above. If counsel advised that there is reasonable doubt, the Chairman may (a) disqualify or excuse the person involved, or (b) call for a determination by the board at a public meeting. The record on any such determination by the board shall be full and complete and shall indicate the reasons supporting the board's decision.

~~D. DISQUALIFICATION ON GROUNDS OF INFLUENCE OTHER THAN AT PUBLIC HEARINGS~~

~~A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on his appeal or application, other than in a public hearing.~~

D. INFORMATION GATHERING BY BOARD MEMBERS

Board members may seek information from and participate in discussion with Town Council, Town Staff, fellow Commissioners, and members of the General Public. Board members shall not discuss items that will be quasi-judicial hearings with members of Town Council during the review process. Attempts at discussion on quasi-judicial matters with members of Town Council will be grounds for dismissal from the Board.

~~E. EXPRESSIONS OF BIAS, PREJUDICE, OR INDIVIDUAL OPINION PRIOR TO HEARING AND DETERMINATION~~

~~Board members may seek information from other members, the Secretary, counsel to the board, or staff serving the board, prior to the public hearing, but no member shall discuss the case with any other parties thereto prior to the public hearing, or express any bias, prejudice, or individual opinion on proper judgement of the case prior to its hearing and determination. Violation of this rule shall be grounds for dismissal from the board.~~

- ~~F.~~ **E.** MEMBERS NOT TO VOTE UNLESS PRESENT AT HEARING MEETING
No board member shall vote on any matter deciding an application or appeal except after attending the public meeting at which hearing on the application or appeal is reviewed.

- ~~G.~~ **F.** CONFLICTS BETWEEN ORDINANCES, POLICIES, AND THIS STANDARDS AND PRACTICES DOCUMENT
Whenever ordinances or policies are adopted by the Town Council which create different standards and practices than those included herein for the Planning & Zoning Commission, the action of Council shall prevail as the official guidance for the Planning & Zoning Commission and this document shall be deemed amended.

CONDITIONAL USE PERMIT APPLICATION EVALUATION

Applicant: _____

Current Property Zoning Description: _____

The Planning and Zoning Commission shall evaluate the Conditional Use Permit application for possible recommendation of approval to the Carolina Beach Town Council. The evaluation will consist of no less than the following considerations and findings:

CONSIDERATIONS

1) Does the use promote harmonious development of the municipality and its environs?

COMMENT _____

2) Does the use in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare?

COMMENT _____

3) Does the use promote efficiency and economy in the process of development?

COMMENT _____

4) Does the use make adequate considerations and provisions for traffic, fire safety, and other emergency operations?

COMMENT _____

5) Does the use have adequate considerations and provisions for light and air in its own right and for surrounding properties?

COMMENT _____

6) Does the use promote the healthful and convenient distribution of population?

COMMENT _____

7) Does the use promote good civic design and arrangement?

COMMENT _____

8) Does the use provide and promote the wise and efficient expenditures of public funds such as public utilities and other public requirements?

COMMENT _____

FINDINGS

1) That the use will / will not materially endanger the public health and/or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.

COMMENT _____

2) That the use does / does not meet all required conditions and specifications.

COMMENT _____

3) That the use will / will not substantially injure the value of adjoining or abutting properties, or that the use is a public necessity.

COMMENT _____

4) That the location and character of the use, if developed according to the plan as submitted and approved, will / will not 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.

COMMENT _____

5) Other: _____

COMMENT _____

All documents and verbiage from this point forward shall be deleted from the SOP. The documents will still be available for use, but they will not longer be part of the SOP.

TOWN OF CAROLINA BEACH

RECOMMENDATION FOR APPROVAL
CONDITIONAL USE PERMIT APPLICATION

On the date(s) listed below, the Carolina Beach Planning and Zoning Commission held a public hearing to consider the following Conditional Use Permit application:

Applicant: _____

Property Description: _____

Type of Conditional Use Permit Request: _____

Meeting Date(s): _____

Having heard all the evidence and argument presented at the hearing, the Commission finds that the application is complete, that the application complies with all of the applicable requirements of the Town of Carolina Beach Zoning Ordinance and/or meets the findings for a Conditional Use Permit. Therefore, the application to make use of the above described property for the purpose indicated is hereby recommended for approval to the Town of Carolina Beach Town Council subject to the following conditions:

- 1) The applicant shall complete the development strictly in accordance with the plans submitted to and recommended by this commission, a copy of which is attached.
- 2) _____
- 3) _____
- 4) _____

Chairman, Planning and Zoning Commission

Date



Application for Conditional Use Permit
Town of Carolina Beach, N.C.

Each application must be printed or typewritten and have all information answered. Incomplete or illegible applications will not be accepted. **All plans must be folded to 8 ½ X 11.** No application will be accepted unless accompanied by a drawing of the proposed lot development drawn to scale with the requirements indicated in Article 17 of the zoning ordinance (see attached conditions)

The Planning Department, Planning and Zoning Commission and/or Town Council reserves the right to require additional information if needed to assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and in accordance with the Code of Ordinances of the Town of Carolina Beach. Applications must be reviewed by the Planning Department for completeness prior to acceptance. Fees are nonrefundable after review by the Technical Review Committee.

Major and minor projects; application fees. The owner or owners, or their duly authorized agent, of the property included in the application for a conditional use permit shall submit a complete application and supplemental information to the Zoning Administrator. A fee in accordance with the Town’s adopted schedule of fees, payable to the Town of Carolina Beach, must accompany each application. For the purposes of determining the fee, the Zoning Administrator shall categorize each such Conditional Use Permit Application as either “major” or “minor”, depending upon the complexity of review. Generally, Planned Residential (over 3 units), Mixed Uses, Business Developments, and similarly complex projects shall be categorized as “major”, while projects such as bed and breakfast inns, small day care services, etc. shall be categorized as “minor”.

Major Conditional Use Permit	=	\$ 800.00
Minor Conditional Use Permit	=	\$ 350.00

This petition will be scheduled for the next possible regular Planning and Zoning Commission meeting. The applicant or a representative should be present at the meeting to answer any questions the Commission may have. Planning and Zoning Commission meetings are held on the second (2nd) Thursday of each month at 7:00 P.M. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Applicants will be informed of any changes in date, time, or location of meetings. Applications and supplementary time for processing and advertisement are required by the General Statutes of North Carolina.

Name of Applicant: _____

Applicant Address: _____

Phone Number: _____ Email Address: _____

Owner Name and Address:
(if not applicant) _____

Address of Requested Site: _____

Current Land Use: _____

Requested Land Use: _____

Tax Parcel Number: _____

Acreage and/or square footage: _____ Existing Zone: _____

Signature of Applicant: _____ Date: _____

Signature of Owner:
(if not applicant) _____ Date: _____

□ *Written Application:*

- (1) The applicant's name, address, and phone number in full.
- (2) The property owner's name, address, and phone number in full, if different than the applicant.
- (3) The developers name, address, and phone number in full, if different than the applicant.
- (4) The name, address, and phone number in full of the professional(s) responsible for preparing the plan, if different than the applicant.
- (5) If the applicant is different than the property owner of record, a signed statement that the applicant is officially acting on the owner's behalf.
- (6) The address and or parcel number of the property.
- (7) Project title.
- (8) The boundary of the property by metes and bounds description.
- (9) Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by this chapter.
- (10) A vicinity map drawn at a scale of 1"=2000' with north point indicated.
- (11) The gross acreage of all parcels in the project.
- (12) Project completion schedule/development phases.
- (13) Written statements relative to project's impacts on existing infrastructure (including capacity of streets, schools, and utilities) and on the natural environment of the site and adjoining lands.

□ *Site plan drawing(s).* To facilitate review it is suggested, but not required, that the site plan drawings be presented on four (4) sheets: a site layout, a water/sewer and utilities plan, a conceptual landscaping and buffering plan and a grading, erosion control and drainage plan. Depending on the scale or complexity of the development, any or all of the sheets may be combined. All drawings shall be prepared at a scale of 1"=50' or larger, showing the site and all land within 150' of the site. Also, for major projects and special sites, the Zoning Administrator may require the applicant to submit a reduced version (8½ by 11-inch sheet size) of each required drawing submitted. Each site plan submittal package shall depict the following information as may be applicable to the project under review:

- (1) A suitable title block containing the necessary information to clearly link all plan drawings with the written application.
- (2) Date, north arrow, scale of drawing in feet per inch, bar graph and number of sheets.
- (3) The names of adjoining recorded subdivisions, and owner(s) and use of adjoining property.
- (4) Widths and names of all adjoining streets and rights-of-way.
- (5) All dimensions, both linear and angular, for locating boundaries of the site, lots, streets, alleys, easements, required setback lines, and monument locations.
- (6) Existing topography and proposed finished topography in relation to mean sea level with a maximum of two (2) foot contour intervals.
- (7) Soil types and geology of the site if determined necessary by Town Staff.
- (8) Corporate limits, township boundaries, county lines if on the site.
- (9) Location and dimensions of all existing structures and improvements adjacent to and on the site, including but not limited to:
 - a. Sidewalks, streets, alleys, and easements
 - b. Buildings and structures
 - c. Driveways, entrances, exits, parking areas, and loading spaces

- d. Sanitary sewer systems
 - e. Water mains and fire hydrants
 - f. Gas, electric, telecable, and telephone systems
 - g. Recreation areas
 - h. Storm drainage systems including natural and man made.
- (10) Location and delineation of all existing natural features and environmentally sensitive areas adjacent to and on the site, including but not limited to:
- a. Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds and any other natural features affecting the site
 - b. Jurisdictional wetlands, i.e. "Section 404 Wetlands".
 - c. CAMA Areas of Environmental Concern (AEC's), such as Estuarine Shoreline AEC's, Ocean Hazard Area AEC's, etc.
 - d. The exact location of the flood plain, floodway and floodway fringe areas as determined by FEMA
- (11) Location of all proposed structures and improvements, typical details, including but not limited to:
- a. All proposed streets and alleys and the boundaries of all other areas intended to be dedicated to public use
 - b. Principal and accessory buildings and structures to include:
 - 1. Distance between buildings and structures to scale
 - 2. Number of stories
 - 3. Number of dwelling units
 - 4. Height of all buildings and structures
 - 5. Finished floor elevation(s)
 - 6. Entrances and exits of the proposed buildings
 - c. Driveways, entrances, exits, acceleration and deceleration lanes, parking areas, and loading spaces, including number of spaces and types of materials with appropriate details
 - d. Sanitary sewer systems with appropriate details
 - e. Water mains and fire hydrants with appropriate details
 - f. Gas, electric, telecable, telephone systems, and all other utilities
 - g. Landscaping and buffering plan prepared in accordance with the requirements of Article 8 of this chapter.
 - h. All sidewalks, walkways, bicycle paths and areas for public use.
 - i. Recreation areas and open space areas with type(s) of improvements including the location, dimensions and details of common areas and facilities such as community buildings or swimming pools if applicable.
 - j. Location, size, and specifications of all signs and advertising features with cross-sections.
 - k. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
 - l. Plans for collecting and disposing of storm water entering and collected on the site. The design of these systems must meet the specifications of Article V, Section 12-211 to 233 of the Town Code of Ordinances.
 - m. Location and refuse disposal facilities and type.
- (12) Proposed grading schedule, including time of the year when grading will be in progress.

---End of Memo/SOP recommendations---

Commission Questions/Discussion

Ms. McQuillen says she has done some research on SOPs online, and that she found it to be a recommendation to put in the SOP actual examples of conflict of interest. Mr. Ferguson says examples can be included. Ms. McQuillen asks about the statement regarding "reasonableness" that she keeps coming across in her readings; Mr. Ferguson and Mr. Parvin will research this further. Ms. McQuillen wants to put this item off until next month when all the commissioners can attend. Mr. Rees asks about

the quorum being 5, not 4; Mr. Parvin explains that the Code of Ordinances requires 5 for a quorum, but the SOP says 4. Thus, the Commission will need to choose one.

ITEM #8 Non-Agenda Items **8:15pm**

Ms. McQuillen speaks of another town that places hanging baskets on its light poles, etc. around town, and how the town teams up with garden clubs to do so. She thinks it really “greens up” that town and would like the Town to look into hanging flower baskets throughout Carolina Beach, perhaps by teaming up with the Boardwalk Revitalization Committee.

ITEM #9 Adjournment **8:18pm**

Ms. Efird moves to adjourn. Mr. Underwood seconds. All ayes.

Respectfully submitted by Karen C. Middleton, Planning & Zoning Commission Secretary