

# CAROLINA BEACH

Town Council Regular Meeting

Tuesday, July 9, 2024 - 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



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## MINUTES

### CALL TO ORDER

Mayor Barbee called the meeting to order at 6:00 PM, followed by the invocation by Mayor Pro Tem LeCompte and Pledge of Allegiance.

### PRESENT

Mayor Lynn Barbee  
Mayor Pro Tem Deb LeCompte  
Council Member Jay Healy  
Council Member Joe Benson  
Council Member Mike Hoffer

### ALSO PRESENT

Town Manager Bruce Oakley  
Assistant Town Manager Ed Parvin  
Finance Director Debbie Hall  
Town Clerk Kim Ward  
Town Attorney Noel Fox

### ADOPT THE AGENDA

Mayor Barbee requested that a short presentation about an idea for an arts-related market at the Boardwalk be added to the agenda after the grant award.

### ACTION: Motion to amend the agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

### ACTION: Motion to adopt the agenda as indicated

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

### CONSENT AGENDA

1. Budget Amendments/Transfers FY24

2. First Reading of Resolution 24-2307 Supporting New Hanover County's Ordinance on Abandoned Vessels
3. Resolution for the Final CAMA Grant Application Pertaining to a New ADA Ramp and Paved Parking Lot at 1810 Canal Drive
4. Approval of the Emergency Debris Removal Contract
5. Approval of Council Meeting Minutes

Council Member Benson said having a debris removal contract loaded and ready to go has served the Town well during hurricanes in the recent past.

Council Member Hoffer asked if staff had confidence about the Coastal Area Management Act (CAMA) grant application. Mr. Oakley said yes, there are strong indications it will be looked upon favorably.

Mayor Barbee said representatives from New Hanover County offered to come tonight regarding the abandoned vessels ordinance, but because it is the first reading and is on the consent agenda he told them it was not necessary at this time.

**ACTION:** Motion to adopt the consent agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

### **SPECIAL PRESENTATIONS**

6. Grant Award Presentation by the Terry Benjey Bicycling Foundation

Tammy Swanson and others from the Terry Benjey Bicycling Foundation presented a \$2,000 grant award to Sgt. Derrick McNeil for the Police Department's bicycle team.

7. Proposal for Arts-Related Market at the Boardwalk

Camile Mayer and Diane Aufiero gave a presentation about having vendors on the Boardwalk near tourist attractions to offer an economic boost, enhance the visitor experience, and provide community and safety benefits. They are seeking to allow 8-10 vendors to set up 4x6 tents in the Pavilion Avenue North alley where the ground mural is located.

Mayor Barbee asked what the process is for this request. Community Development Director Jeremy Hardison said they have applied for an event permit, so the next step would be for them to come before the Events Committee, made up of various Town departments, which would make a recommendation and then send the matter to Council for formal consideration.

Council Member Healy suggested that the women reach out to the Mural Committee to find out legal details and other requirements regarding the contract with the mural artist. He also expressed concerns about the lack of a place for vendors to pull up and unload close to where they would set up.

Mayor Pro Tem LeCompte asked the women if they had approached the Boardwalk business owners to see how they feel about this and how it would affect their profitability. Ms. Mayer said they have talked to restaurants and gotten positive feedback, but they haven't talked to any other businesses. Mr. Parvin said all these details would need to be worked out during the Event Committee stage before the formal Council request.

#### 8. Manager's Update

Mr. Oakley gave an update on various projects:

- The Lake Park Boulevard paving project is expected to run sometime between September 2024 and November 2025. This is a window and not the duration of the project, and the hope is that N.C. Department of Transportation (DOT) would shoot to do it before or after the summer season.
- The sidewalk from Lake Park to Carolina Sands will run along with the paving project. Staff asked about extending the sidewalk to Tennessee Avenue, and the price would be over \$700,000 because of stormwater needs.
- The Spartanburg Avenue crosswalk will happen once the sidewalk is completed.
- Staff conducted an emergency management tabletop exercise in June.
- There will be a mid-year workshop/retreat at the August workshop.

Mayor Barbee asked about the Ocean Boulevard sidewalk. Mr. Oakley said staff is still working through two options with DOT. He said by the time the original plan was approved, the standards had changed and the proposed materials no longer met those standards.

Mayor Barbee asked about the Saint Joseph Street multi-use path. Mr. Oakley said they are hoping to start construction in January 2025. Mayor Barbee said he hopes the Town can get all these projects done before the Centennial Celebration. Mr. Oakley said it would be nice to at least get them started so the Town can update everyone on what's happening.

Council Member Healy said the bike lane down Canal Drive needs to be painted and refreshed every year. Mr. Oakley said this area is a challenge due to wear and tear and sand.

Council Member Hoffer said the South Lake Park Boulevard bike lanes look good.

Mayor Pro Tem LeCompte said the sharrows (shared lane markings) on back streets could use refreshing.

#### **PUBLIC COMMENT**

J.R. Bullock of 4904 Carolina Beach Road in Wilmington requested to appeal the denial he received from the Town to be on the Police Department's wrecker rotation, citing ordinance inconsistencies. He asked that Council review the ordinances for clarity. Ms. Fox said she has been in contact with Mr. Bullock's attorney to clarify the ordinances, and no action was needed from Council. She said Council is not the place to hear his appeal, but if it is determined that reviewing and changing ordinances is necessary then that would go to Council.

Patrick Maloney of 202 Florida Avenue said the bike lanes on the north end are not visible or usable. He also spoke about traffic and speeding issues on Florida Avenue caused by Freedom Boat Club and requested the Town look at adding speed bumps and limiting parking in the area. Mr. Maloney also requested that the Town look at ways to mitigate flooding on Canal Drive.

Kerry Machovec of 309 Georgia Avenue also spoke about the traffic and speeding issues on Florida, Georgia and Virginia avenues. She asked Council to consider a speed reduction to 15mph and adding no-parking signs. Mayor Barbee asked Mr. Oakley to work with staff on a recommendation for this issue to bring back to Council.

## **PUBLIC HEARINGS**

9. Conditional Zoning to Consider a 2-Unit PUD at 2 North Carolina Avenue to Reduce the 15-Foot Separation Requirement  
Applicant: Michael Rose Properties, LLC

Michael Rose Properties, LLC, has applied for a Conditional Zoning (CZ) application for a Planned Unit Development (PUD) project in the Multi-Family (MF) residential district, proposing 2 units. While PUDs with 4 units or fewer are permitted by right, the applicant seeks to reduce the 15-foot separation requirement to 12.5 feet, necessitating CZ approval.

Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one public input meeting and file a report of such results with the Zoning Administrator. In approving a petition for the reclassification of property to a CZ district, the Planning and Zoning Commission may recommend that the applicant add reasonable and appropriate conditions to the approval of the petition.

If the applicant does not agree with the Commission's or staff's recommendations of additional conditions, Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.

## **PROPOSAL**

The applicant is proposing to construct an additional home on the property at 2 North Carolina Avenue. The project will include 2 single-family homes. The existing home is a 1-story cottage with 3 bedrooms that was built in 1964. The additional home would be 2 or 3 stories with 3 bedrooms. The purpose of MF is to provide for moderate- to high-density single-family and multi-family residential uses and other compatible uses of varying types and designs. It functions as an alternative housing type near or in direct relationship to single-family detached housing while in harmony with and maintaining the integrity of the residential district.

The maximum lot coverage is 40%, which includes the footprint of the building, decks, and steps. The applicant's proposed total lot coverage equals 1,973 square feet or 36.46%; 25% of the gross acreage of a residential PUD shall be permanent open space. The applicant is providing 2,527 square feet or 50.54%. The structures will not exceed the 50-foot height limit.

The applicant does not meet the minimum separation between structures because structures are defined as anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. The applicant proposes stairs and landings between the 2 buildings on the site. The face of each building meets the 15-foot separation requirement, but the setback between the stairs is 12.5 feet. The ordinance states that setbacks may depart from the minimum requirement if there is a recommendation for approval by the Town's Fire Marshal and they meet extra provisions as provided by the Fire Marshal. The departure from the required setback must be recommended for approval or denial by the Commission and formally approved by Council.

The Fire Marshal recommends approval of the staircases in the 15-foot setback area if they are constructed with a non-combustible material. This addresses safety concerns associated with the proximity of structures and ensures compliance with fire safety.

Setbacks in MF are 10 feet (front), 10 feet (rear), and 7.5 feet (sides). HVAC and stairs are permitted to encroach in the minimum setbacks. The proposed structure meets all minimum setbacks for the district. The applicant is providing the minimum required 3 parking spaces per unit for a total of 6 parking spaces. No landscape buffer is required for a 2-unit PUD. The maximum density in MF is 17 units/acre. The total density allowed on this 5,000-square-foot lot is 2 units. The driveway width at the property line may not exceed 36 feet.

#### CZ PROCESS

As part of the application process, a community meeting is required. The applicant held the required meeting on April 23, 2024. The applicant has provided summary comments from the meeting. Based on the comments from the meeting, the applicant can place conditions on the project to help mitigate the impacts and concerns from neighboring properties.

#### PROPOSED CONDITIONS

1. All Federal, State, and Local ordinances shall be met.
2. Stairs and landing shall be constructed of non-combustible materials.

#### RECOMMENDATION

Staff recommends approval of the project as proposed, and the Planning and Zoning Commission unanimously recommended approval with the added condition that the original structure will not exceed the height of the new structure if it has to be rebuilt.

#### LAND USE PLAN

The project is in general conformity with the 2020 Land Use Plan for Medium Density Residential: mostly medium-sized lots (minimum 5,000 square feet) with primarily single-family detached residences.

**ACTION:** Motion to open the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

Senior Planner Gloria Abbotts presented the details. She reviewed surrounding uses and history of the property and showed the proposed site plan. Ms. Abbotts said 2 people attended the community meeting, and there were no concerns brought up or changes to the plan made as a result.

Council Member Hoffer said he's not sure that the condition added by the Commission does anything. Ms. Fox said any conditions added need to mitigate the impacts of development, and staff is not suggesting that this condition be included because it doesn't serve that purpose. Ms. Abbotts said they must adhere to the maximum height allowed in the district anyway.

Mayor Barbee asked if the applicant would like to speak.

Michael Rose, owner of the property, said he thinks the intent of the Commission's condition was for the house in the front to not be taller than the 46-48 feet he is planning for the new structure in the case the older structure has to be rebuilt someday. He said they want to put stairs and a landing on the side to enable people to park underneath instead of in between buildings. Mr. Rose said if they can't put the stairs and landing on the side, the width of the building footprint would too narrow to allow parking underneath.

No one else requested to speak.

**ACTION:** Motion to close the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

Council Member Healy said as long as they follow what the Fire Department requires, he is fine with it.

Mayor Pro Tem LeCompte asked for staff to comment about the Commission condition. Mr. Hardison said the applicant indicated he would agree to it. Mayor Barbee said the house behind it will be about 47 feet tall and it is just a matter of a few inches, so he thinks that condition can be left out.

Council Member Hoffer suggested there could be concerns for future buyers because the land is not splitting, but he said he doesn't have a major problem with the proposal.

**ACTION:** Motion for approval, whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine that the adoption of the Conditional Use District to allow a 2-unit Planned Unit Development (PUD) located at 2 North Carolina Avenue is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans to include staff's proposed conditions of all Federal, State, and Local ordinances shall be met and stairs and landing shall be constructed of non-combustible materials

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

10. Consider Approving the Final Draft of the Unified Development Ordinance (UDO) Repealing Chapters 30, 32, 36, and 40 and the Existing Relevant Language Will Be Incorporated into the UDO

Applicant: Town of Carolina Beach

**ACTION:** Motion to open the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

Community Development Director Jeremy Hardison recognized the committee that worked on the Town's first Unified Development Ordinance (UDO), including Chair Wayne Rouse, who said committee members each spent 10-12 hours per month for nearly 2 years on the project.

Mr. Hardison also introduced Wes MacLeod of Cape Fear Council of Governments, who assisted the committee and staff with the process. To create the UDO, the respective chapters relating to land use (Chapters 30, 32, 36, and 40) contained in the Town's General Code will be repealed and the existing relevant language incorporated into the new UDO. An audit of all existing land development ordinances was completed to identify areas in need of change. Public hearings held before the Planning and Zoning Commission and Council are required prior to adoption.

Mayor Barbee asked if anyone from the public wanted to speak about the UDO.

Steve Jaeb of 204 Tennessee Avenue said he would like to hear an overview of the proposed changes, which was presented to Council at the last workshop. Mr. MacLeod reviewed the draft highlights again.

The editorial draft contains strikethrough (language proposed for deletion) and underline (new language) formatting. The following items have been completed as part of the draft update:

- Updates and modification for overall organization and clarity. Reduction in overall text and clarification of many ambiguous and unclear provisions.
- Consolidation of procedures, roles, responsibilities, and administrative items into one article (Article 2).
- Revision to the table of permitted uses to consolidate use types where feasible and incorporate additional uses required by case law or North Carolina General Statutes.
- Establishment of impervious coverage limit of 65% for all zoning districts, with the exception of HB, CBD, and T-1. The 65% limit is based upon an assessment of existing site conditions throughout the Town's planning jurisdiction.
- Restriction on the use of site fill to raise the elevation of a lot. The placement of fill is restricted to 1 foot above the crown of the adjacent street or alley. An exception is provided for lots impacted by tidal flooding. The CBD and HB zoning districts are exempt from this requirement.
- Consolidation of development standards such as fences, parking, sidewalks, and driveways into one article (Article 3).

- Update to off-street parking requirements to allow up to 20% of the required parking spaces to be utilized for golf cart or low-speed vehicle (LSV) parking.
- Restriction of the use of private streets in future subdivisions.
- Removal of the allowance of bonding or financial guarantees for the installation of infrastructure.
- Update to the Wireless Article in accordance with North Carolina General Statutes.

Mr. MacLeod said this process will likely result in some unforeseen issues that need to be changed or otherwise resolved, so he will work with staff on any interpretation matters or other situations that arise. He said this is part of the process, and the ultimate goal is to have a better regulatory framework for development.

No one else requested to speak.

**ACTION:** Motion to close the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

Council Members expressed appreciation for all the work involved with the UDO.

**ACTION:** Motion to approve Ordinance 24-1230 repealing Chapters 30, 32, 36, and 40 of the Town’s General Code and adopt the updated Unified Development Ordinance dated May 23, 2024, for the Town of Carolina Beach and shall be effective on August 9, 2024

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

11. Text Amendment to Chapter 40 Article III Zoning District Regulations, Article V Off-Street Parking and Loading Requirements; Parking, and Article IX Development Standards for Particular Uses to Amend Standards for Wine and Beer Shops  
Applicant: Town of Carolina Beach

Council adopted a text amendment in April of this year to allow for wine shops and beer shops with on-premise alcohol sales as a use in the Marina Business (MB) district by right. However, upon recognizing unintended consequences, there was a need to re-evaluate the ordinance change. Previously, wine and beer shops were limited to retail and off-premise sales only, until an amendment in April 2023 permitted on-premise sales after an amendment was proposed by a private business.

**PROPOSAL**

Wine and beer shops (on-premise) are currently allowed by right in the Central Business District (CBD), Highway Business (HB), Neighborhood Business (NB), and MB districts. This text amendment proposes to return the wine and beer shop ordinance to the standards that were in place in April 2023. Upon



further research, the approved allowance expands the way the Town has treated alcohol permits with establishments being permitted by right for wine and beer and undermines bar regulations.

#### WINE SHOP

The proposed ordinance permits wine shops (on-premise) in the CBD, HB, and NB zoning districts, in alignment with Alcoholic Beverage Control (ABC) regulations. These establishments can sell unfortified wine for on-premise consumption, not exceeding 40% of total sales in any 30-day period, subject to ABC audit.

#### BEER SHOP

Beer shops need to obtain an on-premise malt beverage permit to allow for the retail sale of malt beverages for consumption on- and off-premise without any limitation or percentages to off-premise sales. The existing ordinance allowed for beer shops to be permitted by right in MB and undermined the bar and tavern requirements by allowing on-premise beer sales without CZ. Beer shops are only permitted in NB. To reduce the impacts from the use of adjoining properties, restrictions were adopted for any outdoor or indoor areas to be setback from an adjacent property line or residential use.

The text amendment adopted in April 2023 consisted of defining both uses. Beer shops are defined as an establishment substantially engaged in retail sale of malt beverages on- and off-premises subject to ABC Commission regulations. Wine shops are defined as an establishment substantially engaged in retail sale of unfortified wine and fortified wine for consumption on- and off-premises subject to ABC Commission regulations.

#### PARKING

When the amendment was adopted in April 2023, wine and beer shops were categorized under eating and drinking establishments. Under the existing ordinance, all wine and beer shops were considered retail. This is important because the change of use would trigger a different parking standard. Parking for retail is calculated at one parking space per 200 square feet of retail space. Parking for eating and drinking establishments is calculated at one space per 110 square feet.

#### LAND USE PLAN

While the Land Use Plan doesn't explicitly address wine and beer shops, the proposed amendment aligns with the plan's goals of fostering a healthy year-round economy and maintaining a family-friendly community.

**ACTION:** Motion to open the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

Ms. Abbotts presented the details. She said staff and the Planning and Zoning Commission recommend approval of the text amendment as proposed.

No one else requested to speak.

**ACTION:** Motion to close the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

Mayor Barbee said he considered this a learning experience. He said Council addressed a very specific case with a text amendment, and later Council Members had time to think about the decision and become educated on some of the unintended consequences. As a result, he said he thinks today's proposal is the right thing to do.

**ACTION:** Motion to amend the text amendment to Chapter 40 Article III Zoning District Regulations, Article V Off-Street Parking and Loading Requirements; Parking, and Article IX Development Standards for Particular Uses to amend standards for wine and beer shops

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

## **ITEMS OF BUSINESS**

### 12. Committee Appointment Parks and Rec

Council made the following committee appointment:

- Parks and Rec – Matthew Shuttleworth

Mayor Barbee encouraged those who didn't get appointed to keep applying and in the meantime attend meetings because you do not have to be appointed to participate.

### 13. Request to Consider a Proposed Traffic Signal Modification at Harper Avenue and North Lake Park Boulevard

As part of the future paving project on Lake Park Boulevard, the Town requested that DOT look at making improvements to the Lake Park Boulevard and Harper Avenue intersection. The proposal requires a change to the traffic signal, which would add \$30,000 to the project. The cost would be the responsibility of the Town.

Mr. Oakley said there are some rollover funds that can pay for this, so the Town won't have to dip into the fund balance.

Mayor Pro Tem LeCompte said that intersection is a safety issue.

Council Member Hoffer said part of the confusion is because the intersection with Cape Fear Boulevard works differently.

Mayor Barbee said the signal changes and safety improvements at Cape Fear Boulevard have been great.

Mayor Pro Tem LeCompte asked if the same delays from the other intersection can be implemented at Harper Avenue. Mr. Oakley said they can request this.

Council Member Hoffer said by having one left-turn lane only, the arrow makes it clearer.

**ACTION:** Motion to approve the proposed request to modify the traffic signal at Harper Avenue and North Lake Park Boulevard to correct the significant lane misalignment for the westbound approach

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

*Motion passed unanimously*

### **COUNCIL COMMENTS**

Mayor Pro Tem LeCompte gave a list of upcoming events:

- Life Rolls On – August 3 at the beach strand
- Life Rolls On – August 4 at the Skate Park
- National Night Out and Family Night – August 6 at the Boardwalk
- 13th Annual Whomporama – August 10 at the Hamlet Avenue beach access
- Movies at the Lake – continues every Sunday through September 1 at Lake Park
- Family Night – continues every Tuesday through August 20 at Lake Park
- Boardwalk Bingo – continues every Wednesday through August 28 at the Gazebo
- Fireworks/Music – continues every Thursday through the season with the exception of the Labor Day (Friday, August 30) show
- Carolina Beach Market – continues every Saturday through September 28 at Lake Park

Council Member Healy asked staff to find a way to straighten out the travel lanes at Winner Avenue and Canal Drive. He said you must go in the right lane to go straight in the southbound lane on Canal Drive. Mr. Oakley said staff is already looking into this.

Council Member Healy praised the Planning and Zoning Commission for their time and said their work makes Council's job easier.

Council Member Benson said he is looking forward to the presentations scheduled for the July 23 workshop, including updates on Canal Drive.

Council Member Hoffer said homeowners should have some right of ownership to the right-of-way in front of their property because they are responsible for maintaining it. He said they should be allowed to put up barriers to prevent visitors from parking on their grass.

Council Member Hoffer asked staff to follow up on the Bike/Ped Committee's recommendation to add stop bars or flags at intersections that are heavily traveled by cyclists and pedestrians.

Mayor Barbee said a New Hanover County resident stopped him to comment that Carolina Beach is now his go-to beach because of cleanliness, safety, and parking availability, and the resident praised Ocean Rescue staff for their professionalism. Mayor Barbee said lifeguards, those who clean the Boardwalk and bathrooms and empty the trash, and Police and Fire staff are the face of the Town, and he praised them for the good job they are doing.

**ADJOURNMENT**

Mayor Barbee adjourned the meeting at 7:45 PM.