

CAROLINA BEACH

Town Council Workshop
Meeting

Tuesday, February 23, 2021 – 9:00 AM

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



AGENDA

CALL TO ORDER

DISCUSSION ITEMS

1. Employee Recognition
2. Presentation by Lisa Overby-Dosier on a Community Fridge Proposal
3. Summer Programs by Eric Jelinski
4. Manager's Update
5. A Briefing on Conditional Zoning
Applicant: Town of Carolina Beach
6. Discuss permitting & regulations for sidewalk cafes for the upcoming season
7. Direction on Regulating Rooming Houses

NON-AGENDA ITEMS

CLOSED SESSION

8. Closed Session to Discuss a Personnel Matter

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council – 02/23/2021 Workshop

SUBJECT: Employee Recognition

BACKGROUND:

20 Years of Service

Mark Meyer will recognize Mark Fowler for 20 years of service in the water department.



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council – 02/23/2021

SUBJECT: Presentation by Lisa Overby-Dosier on a Community Fridge Proposal

BACKGROUND:

Lisa Overby-Dosier spoke during the public comment portion of the January 12, 2021 Council meeting to present the idea of having a community refrigerator for residents in need. Council asked that she make a formal presentation at a future Council meeting to give them time to review the proposal.

ACTION REQUESTED:

Lisa will present the specifics to Council for discussion.

RECOMMENDED MOTION:

“Community Fridge” Planning

Contact: Lisa Overby-Dosier

910-508-4475 |

lisaislocal@gmail.com

Location

Off the beaten path - away from tourist areas to serve the local community.

1. Near the police station ideal (Carolina Beach Presbyterian)
2. Near the fire station ideal (Seaside Chapel)

Power

Church will be asked to cover the power costs and supply power to the Community Fridge

Structure

Wood structure placed in the shade ideally.

Cost to be sourced out to a contractor and/or the community

Possible local contractor to volunteer time to build

Fundraiser held at Good Hops for money for materials (if not donated)

Weather proofing needed

Colorful and inviting

Logistics

Use at your own risk verbiage posted on structure and refrigerator

Fruits, Veggies and similar allowed only, no meat or dairy

Signage

Donated by Island Printer (banners only, others a fee)

Signs in English and Spanish

“Please take *only* what you need”

“This blessing was designed to help *many*, not just one so please take only what you need”

Purchase other yard signs & fridge magnets (using donated funds)

Upkeep

Volunteers to clean out/throw out every other day

Volunteer schedule via facebook group

Maintenance

When a cost arises to service the refrigerator, these are the steps to be taken:

1. Ask community for donated time /professional services

2. Hold fundraiser if needed for repair costs / hiring a professional

Item 2.



AGENDA ITEM COVERSHEET

PREPARED BY: Eric Jelinski

DEPARTMENT: Parks and Rec

MEETING: Town Council Workshop – 2/23/2021

SUBJECT: Summer Programs by Eric Jelinski

BACKGROUND:

Eric Jelinski will discuss potential summer programs for 2021.

ACTION REQUESTED:

No action requested.



Summer Programs 2021

TOWN COUNCIL WORKSHOP

2021 Summer Events

- Summer Event Meeting was held on Tuesday, February 16th
 - Town Staff and Mayor Pierce
 - PI Chamber of Commerce
 - PIRA
- Parks and Recreation Department is now coordinating the Fireworks and Movies at the Lake
- Obstacles
 - When can we start the programs?
 - Planning starts now for Summer Programs
 - Secure vendors, organize volunteers, execute contracts



Potential Timeline for Summer Programs

Program	Start Date	End Date	Notes
Fireworks	Friday, July 2nd	Thursday, September 30 th	Labor Day – Fireworks on Friday, September 3rd
Music at the Boardwalk	Thursday, July 8 th	Thursday, September 30 th	Coordination through PIRA or Town – still working through this. Labor Day – Music on Friday, September 3rd
Movies at the Lake	Sunday, July 11 th	Saturday, October 2nd	Starting on September 11 th potentially move movies to Saturday evening
Family Night at the Boardwalk	Tuesday, July 6 th	Tuesday, August 31 st	Is it worthwhile to extend into September?

Concerns

- Must be flexible
 - Unknown regarding COVID-19 and what would be allowed in July or earlier.
 - Contract notice of 30 days for vendors. Dates may be changed or be canceled.
 - Is it worth extending the programs through September?
- Planning
 - Need to have consensus on dates to schedule vendors and organize volunteers



Budget Impacts

Program	Amount	Total
Fireworks	July 2 nd - \$10,000 13 dates at \$2,750 per show	\$45,750
Music at the Boardwalk	Sound - \$700 to \$1,400 Bands - \$600 to 1,000 12 dates	\$15,600 to \$28,800
Movies at the Lake	12 dates - \$1,500 per movie	\$18,000
Family Night	9 dates - \$1,000 per night	\$9,000

Note: Does not include additional overtime for Cbfd for Fireworks and additional part-time Parks and Recreation employees.

Questions and Comments



AGENDA ITEM COVERSHEET

PREPARED BY: Bruce Oakley, Town Manager

DEPARTMENT: Executive

MEETING: Town Council Workshop – February 23, 2021

SUBJECT: Manager's Update

BACKGROUND:

Town Manager Bruce Oakley will update Council on current and future projects.



AGENDA ITEM COVERSHEET

PREPARED BY: Miles Murphy, Senior Planner

DEPARTMENT: Planning

MEETING: Town Council Workshop – 23 FEB 2021

SUBJECT: A Briefing on Conditional Zoning

Applicant: Town of Carolina Beach

BACKGROUND:

Staff is currently updating many aspects of the zoning ordinance related to the required 160D update in the State Statutes. Part of this involves a change of conditional use permits to conditional zoning.

One of the big focuses of this update is to drastically reduce the need for quasi-judicial procedures while still providing sufficient review and control over potentially some uses. Staff’s direction from the attorney is to move forward with conditional zoning as it is a legislative process, rather than quasi-judicial, and it is supported in the 160D updates for North Carolina.

ACTION REQUESTED:

Learn about Conditional Zoning

RECOMMENDED MOTION:

(To be added under Article 17)

Sec. 40-527 Conditional Zoning (Districts)

(1) PURPOSE

- (a) A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted land use plan, adopted area plans and other long range plans. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.
- (b) All uses listed as part of any application shall be in the same format and description as listed in the table of uses.
- (c) A conditional zoning and a zoning map amendment are occurring simultaneously in a conditional zoning hearing. Therefore, except as provided herein, all applications to establish a conditional zoning district shall follow the regulations related to conditional zoning in addition to the standard zoning map amendment (rezoning) process as described in this ordinance.

(2) APPLICATION AND CONDITIONAL ZONING REVIEW PROCEDURE

- (a) The application for a conditional rezoning approval shall also be accompanied by an application to amend the zoning map (rezoning) to a conditional development zoning district. The rezoning application shall be submitted concurrently with the conditional zoning site plan. The procedure for such shall be followed as outlined in Article 17. The approved site plan shall provide the framework for development in the conditional zoning district. All applications shall include a site plan meeting Article 13 and any development standards to be approved concurrently with the rezoning application. Development standards may include such things as parking, landscaping, design guidelines, and buffers.
- (b) All proposals for a conditional zoning application shall abide by the uses and the dimensional standards required by the underlying base zoning district for which the proposal is located.
- (c) An application for conditional zoning approval shall be accompanied by 2 hard copies and a digital copy of a conditional zoning site plan.
- (d) Application timeline:

<u>Order of Review</u>	<u>Number of Copies</u>	<u>Deadline for Submittals</u>

1. <u>Technical Review Committee</u>	<u>2 paper and an electronic</u>	<u>14 days prior to the regularly scheduled meeting date</u>
2. <u>Planning and Zoning Commission</u>		<u>14 days prior to the regularly scheduled meeting date</u>
3. <u>Town Council</u>		<u>14 days prior to the regularly scheduled meeting date</u>

- (e) When evaluating an application for the creation of a conditional zoning district, the Planning & Zoning Commission and Town Council shall consider the following:
 - 1. The application’s consistency to the general policies and objectives of the Town’s CAMA Land Use Plan, any other officially adopted plan that is applicable, and the Zoning Ordinance.
 - 2. The potential impacts and/or benefits on the surrounding area, adjoining properties.
 - 3. The report of results from the public input meeting.

(3) PUBLIC INPUT MEETING

- (a) Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one (1) public input meeting and file a report of the results with the Zoning Administrator.
- (b) The report for the public hearing will include a summary of the public input meeting.
- (c) The applicant shall mail a notice for the public input meeting to the owners of all properties located within 500 feet of the perimeter of the project bounds not less than 10 days prior to the scheduled meeting.
- (d) The notice shall include the time, date, and location of the meeting as well as a description of the proposal.
- (e) The applicant’s report of the meeting shall include:
 - 1. A copy of the letter announcing the meeting
 - 2. A list of adjoining property owners contacted
 - 3. Attendance rosters
 - 4. A summary of the issues discussed
 - 5. The results of the meeting including changes to the project’s proposal, if any.

(4) CONDITIONS TO APPROVAL OF PETITION

- (a) In approving a petition for the reclassification of property to a conditional zoning district, the Planning & Zoning Commission may recommend, and the Town Council may request that the applicant add reasonable and appropriate conditions to the approval of the petition.
- (b) Any such conditions should relate to the relationship of the proposed use to the impact on the following details:
 - 1. Town services
 - 2. Surrounding property
 - 3. Proposed support facilities such as parking areas and driveways
 - 4. Pedestrian and vehicular circulation systems
 - 5. Screening and buffer areas
 - 6. Timing of development

7. Street and right-of-way improvements
 8. Infrastructure improvements (i.e. water)
 9. Provision of open space
 10. Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose
- (c) Such conditions to approval of the petition may include right-of-way dedication, easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
 - (d) The petitioner shall consider and respond to any such conditions after the Planning & Zoning Commission meeting and within three (3) days prior to the staff report for the Town Council being published. If the applicant does not agree with the Planning & Zoning Commission or staff's recommendations of additional conditions, the Town Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.
 - (e) If any condition required at approval is later found to be illegal, the petition shall be returned to Town Council to reevaluate and adjust any conditions accordingly.
- (5) EFFECT OF APPROVAL
- (a) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.
 - (b) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example "CBD-CZ"). No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district.
 - (c) Any violation of the approved regulations and conditions for the district shall be treated the same as any other violation of this ordinance and shall be subject to the same remedies and penalties as any such violation.
- (6) REVIEW OF APPROVAL OF A CONDITIONAL ZONING DISTRICT
- (a) See Sec.40-397 for duration and termination of a vested right



Conditional Zoning

February 23, 2021
Miles Murphy – Senior Planner

Background

- *State Statute changes from 153/160A to 160D for Zoning*
- *Many, many changes required in local ordinances*
- *Conditional Use Permits are no longer permitted*
- *Transitioning to Conditional Zoning on Attorney's Recommendation*
- *Reviewing Table of Permissible Uses at a future date, based on TC direction, to reassess which uses require additional scrutiny and which uses should be permitted by right*

CUP to SUP

- All references and procedures related to Conditional Use Permits are changed to Special Use Permits
- Procedures remain largely unchanged
- Quasi Judicial procedures are still used
- No uses are *required* to be handled by SUP



Legislative (Conditional Zoning) vs QJ (CUP/SUP)

	Legislative	Quasi Judicial
Notice of Hearings	Both newspaper notice and mailed notice to owners and neighbors are required. Additional Public Scoping Meeting	Only notice to parties to the matter is required unless ordinance mandates otherwise.
Speakers at Hearings	No limit based on standing, reasonable time limits	Witnesses presenting testimony can be limited to relevant evidence that is not repetitious.
Evidence	None is required	Substantial, competent, material evidence must be put in the record; witnesses are under oath, subject to cross-examination
Findings	None are required	Written findings of fact are required.
Records	Regular minutes are satisfactory	Detailed record of testimony is required; clerk should retain all exhibits during period of potential appeal.

Conditional Zoning (Legislative)	Conditional/Special Use Permits
Legislative Decision based on citizen input	Quasi-judicial decision based upon substantial, competent, and material evidence and citizens with standing
Broad discretion to approve or deny a proposal	Must approve proposal if burden of proof is met
Limited recourse following decision – elected board’s wisdom is not questioned	Decision commonly appealed to Superior Court
No limit on discussion of proposal prior to decision	No undisclosed ex parte communication
Limited conflict of interest concerns – financial and familial	Stringent conflict of interest provisions – financial, familial, ex parte, and impartial decision maker

Conditions

Beyond each district's limitations
or minimum required standards

Reasonable

- Signage
 - Location, number, size
- Traffic Impact Analysis
 - Design of access/infrastructure
- Design (not SFR/2FR)
 - Location of parking
 - External materials
 - Access
- Landscaping
 - Location and Size
- Buffers
 - Fencing
 - Landscaping
 - Open Space
- Uses
- Density
 - Number of units

Conditions

Unreasonable

- Price of sale
- Non-quantitative conditions
 - Setback/buffering without exact direction
 - Not “too many” signs
- Size – outside of existing zoning standards
- SFR/2FR Design Standards



Power to the People

- Whomever is voted into office will have more control over decision making
- People do not need to be experts or have standing



Questions?

Staff Recommendation

Amend Chapter 40, Article XVII, Sec. 40-527

- (1) It is recommended that Town Council open the public hearing for comments.
- (2) Close the public hearing
- (3) Consider approval or denial of the proposal and make a motion according to the appropriate statement.

New Statutory Requirements

The General Assembly amended G.S. 153A-341 and 160A-383 to add more specificity to the law regarding the mandated plan consistency statements. The amended statute still requires approval of a statement and the statement still must describe plan consistency and explain why the proposed action is **reasonable and in the public interest**. However, the form of the required statement has changed. The statement must take one of three forms:

- A Statement of Approval – The Council, whereas in accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Zoning, Article XVII, Sec. 40-527 to adopt conditional zoning, in the Town of Carolina Beach, it is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans. (If applicable - List any recommended restrictions or requirements)
- A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.
- A Statement of Denial – Town Council deny the adoption of the following ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.

Action

Approval - whereas in accordance with the provisions of the NCGS, the Commission does hereby find and determine that the adoption of the following ordinance amendment to Chapter 40, Article XVII, Sec. 40-527 is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans or

- A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.

Denial - based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long-range planning documents.



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning Director

DEPARTMENT: Planning

MEETING: Town Council – 23 FEB 2021

SUBJECT: Discuss permitting & regulations for sidewalk cafes for the upcoming season

BACKGROUND:

Last year the town waived permits, fees and did not monitor outdoor cafes for compliance. Sidewalk cafés are areas that eating establishments use for seating that is located in the town right-of-way within the Central Business District. This year while we are still under a state of emergency staff is seeking direction on the following.

- Permits - Does the Town want to issue permits for outdoor cafes? In 2019 seven eating establishments were permitted.
- Permit Fee - Annual permit = \$200.00
- Regulations
 - Location of seating - Sidewalk cafés can only encroach a certain amount into the town's right-of-way to provide adequate pedestrian access.
 - Remove encroachments - At 12:00 a.m., all tables, chairs, barricades, stanchions and platforms used in the operation of the sidewalk cafe shall be removed
 - Congregating of patrons - In or around encroachment areas shall be prohibited. Alcohol consumption outside of the premises or while standing shall be a violation of [section 18-2](#), drinking in public.
 - No alcohol shall be served after 11:30 p.m. and all sidewalk cafés shall be closed by 12:00 a.m. Any person consuming alcoholic beverages in a sidewalk café after such hours shall be subject to [section 18-2](#), drinking in public.

ACTION REQUESTED:

Direction on Sidewalk Cafes

RECOMMENDED MOTION:



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning Director **DEPARTMENT:** Planning

MEETING: Town Council – 23 FEB 2021

SUBJECT: Direction on Regulating Rooming Houses

BACKGROUND:

Currently in the zoning ordinance the town does not have any regulations or definitions for a rooming or boarding house. There have been recent discussions at what point are you operating as a single-family home or a rooming house. Staff would like to seek direction from Council if this is something you would like to review regulatory options for moving forward at a future council meeting.

ACTION REQUESTED:

Seeking direction on moving forward with language for rooming house.

RECOMMENDED MOTION:



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Council Workshop 2/23/2021

SUBJECT: Closed Session to Discuss a Personnel Matter

RECOMMENDED MOTION:

Motion to go into closed session to discuss a personnel matter in accordance to NCGS 143-318.11(a)(6).