

# CAROLINA BEACH

Planning and Zoning Commission Meeting

Thursday, April 13, 2023 – 6:00 PM

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



---

## AGENDA

### CALL TO ORDER

### APPROVAL OF MINUTES

1. March 9th, 2023 – P&Z Minutes

### STAFF REPORT ON RECENT COUNCIL MEETINGS

### STAFF REPORT ON RECENT DEVELOPMENTS

### PUBLIC DISCUSSION

2. Text Amendment to amend Chapter 40, Art. XVII. – Definitions to amend the definition of Gross floor area, outdoor. Applicant: Town of Carolina Beach

### DISCUSSION ITEMS

### NON-AGENDA ITEMS

### ADJOURNMENT



## AGENDA ITEM COVERSHEET

---

**PREPARED BY:** Gloria Abbotts, Senior Planner

**DEPARTMENT:** Planning &  
Development

**MEETING:** Planning & Zoning Commission – April 13<sup>th</sup>, 2023

**SUBJECT:** March 9<sup>th</sup>, 2023 – P&Z Minutes

---

**Action:**

Approve the March 9<sup>th</sup>, 2023 Minutes

# CAROLINA BEACH

Planning and Zoning Commission Meeting

Thursday, March 9, 2023 - 6:00 PM

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



---

## MINUTES

### CALL TO ORDER

Chairman Rouse called the meeting to order at 6:00 PM.

### PRESENT

Chairman Wayne Rouse

Vice Chairman Jeff Hogan

Commissioner Melanie Boswell

Commissioner Ethan Crouch (arrived at 6:05 PM)

Commissioner Todd Piper

Commissioner Bill Carew

Commissioner Lynn Conto

### ALSO PRESENT

Planning Director Jeremy Hardison

Senior Planner Gloria Abbotts

### APPROVAL OF MINUTES

1. January 12, 2023 – P&Z Minutes

**ACTION:** Motion to accept the minutes

Motion made by Vice Chairman Hogan, Seconded by Commissioner Boswell

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

*Motion passed 6-0*

### STAFF REPORT ON RECENT DEVELOPMENTS

Ms. Abbotts reported the following statistics for the past two months:

#### Permitting

- 65 permits (renovation, repair, grading, additions, fences)
- 12 residential new construction
- 28 certificates of occupancy

#### Code Enforcement

- 19 complaints received

- 18 resolved

#### Demos

- 210½ Cape Fear Boulevard
- 414 Goldsboro Avenue
- 1522 Pinfish Lane
- 503 Canal Drive

#### New Businesses

- Yo Bre’z Frozen Dessert Bar – 9 South Lake Park Boulevard
- Reef Retreat (medical services) – 1328 North Lake Park Boulevard, Suite 108B

#### Town Council and Other Updates

- Rezoning 209 Charlotte Avenue to Central Business District (CBD) – approved in February
- Text amendment for event venues – approved in February
- Hamlet Avenue stoplight – expected completion in mid-April

#### **PUBLIC COMMENT**

None

#### **PUBLIC HEARING**

2. Text Amendment to Amend Chapter 40, Article III – Zoning District Regulations, Article IX – Development Standards for Particular Uses, and Article XVII – Definitions to Create Standards for Wine Shops and Beer Shops in Neighborhood Business  
Applicant: Maxwell Sussman

Applicant Maxwell Sussman is proposing a text amendment to allow for wine shops and beer shops with on-premise alcohol sales as a use in the Neighborhood Business (NB) district by right. Currently the zoning ordinance allows for wine and beer shops with retail and off-premise sales of alcohol only.

#### PROPOSAL

The applicant owns The Veggie Wagon in the NB district. The business currently has an off-premise wine and malt beverage permit. The applicant would like to apply for an on- premise wine and malt beverage permit at that location. The Veggie Wagon is currently permitted as a retail establishment. For allowances of on-premise wine and malt beverage, the current ordinance categorizes the use as either a standard restaurant, bar, or brewery. The Veggie Wagon does not meet the definition of a standard restaurant or brewery. Breweries and bars are not permitted in the NB district.

#### WINE SHOP

The applicant proposes to add wine shop (on-premise) to the table of allowed uses. The current ordinance allows for wine shops (off-premise) as retail. The Alcoholic Beverage Control (ABC) Commission created an allowance in recent years for a wine shop to have limited sales of on-premise consumption. Wine shops must comply with all ABC standards and obtain proper permits. Per North

Carolina General Statute 18B, wine shop permits authorize the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container and/or dispensed from a tap for consumption off the premises. The holder of the permit is allowed to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed 40% of the establishment's total sale for any 30-day period. The limited consumption of on-premise wine would be subject to an audit by the ABC commission. Wine shops (on-premise) will be permitted by right in the CBD, NB, and Highway Business (HB) districts.

#### BEER SHOP

The applicant would also like the ability to provide on-premise malt beverages in the NB district. Beer shops would need to obtain an on-premise malt beverage permit to allow for the retail sale of malt beverages for on- and off-premise consumption. ABC regulations do not have the same limitations for a beer shop as a wine shop, so the applicant would be allowed to offer on-premise malt beverages without any limitation or percentages to off-premise sales. The proposal is for beer shops to only be permitted by right in the NB district. To reduce the impact from the use on adjoining properties, staff proposes that any outdoor or indoor areas be located three times the minimum setback yard for the district from any interior lot line from an adjacent property.

The text amendment consists of defining both uses. Beer shops will be defined as an establishment substantially engaged in retail sale of on- and off-premise malt beverages subject to ABC Commission regulations. Wine shops will be defined as an establishment substantially engaged in retail sale of on- and off-premise unfortified wine and fortified wine subject to ABC Commission regulations.

Ms. Abbotts presented the details. She showed aerial photos comparing the current minimum setback with the proposed setback. Ms. Abbotts said the text amendment is in general conformity with the 2020 Land Use Plan. She said staff proposes to define each use and supports the proposed amendment that would limit beer shops to have a larger yard setback to protect neighboring properties and mitigate any concerns of the use.

Commissioner Carew asked what other properties in NB would be able to meet the proposed larger setback. Ms. Abbotts said the Superior Automotive property is the only one that would have that capability.

Chairman Rouse asked if the proposed larger setback is for both the beer shop and wine shop uses. Ms. Abbotts said it's just for the beer shop use because ABC has additional wine shop standards of only selling a certain amount for on-premise consumption. Mr. Hardison said on-premise sales of wine would be an accessory use to retail, which is regulated by ABC, but there are not the same regulations for malt beverages. He said a bar would have to be permitted via the Conditional Zoning (CZ) process, and staff wants to come up with other standards with a limited ability to utilize the allowance.

**ACTION:** Motion to open the public hearing  
Motion made by Chairman Rouse, Seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto

*Motion passed unanimously*

Mr. Sussman of 833 Settlers Lane in Kure Beach said he realized The Veggie Wagon was doing some things that weren't within the permitted uses of the ABC license, so he reached out to Mr. Hardison to get information on how to come into compliance. Mr. Sussman said he discovered NB didn't have rules for on-premise consumption unless the use is a restaurant or bar, and he has no desire to serve liquor or be open until 2:00 AM. He said he just wants to continue what's been done for 12 years at this location.

Vice Chairman Hogan asked Mr. Sussman to confirm that on-premise consumption of alcohol has already been happening for 12 years. Mr. Sussman said it's not an advertised practice, but some people have been buying alcoholic beverages there and taking them out front to drink. He said he came to realize this isn't permitted under the current ordinance.

No one else requested to speak.

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

Motion made by Chairman Rouse, Seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto

*Motion passed unanimously*

Commissioner Conto said she doesn't have a problem with the proposal. She said it helps to define another business model.

Commissioner Crouch said the current ordinance was written in a restrictive manner and people are eating and drinking in different ways now, so new business models are emerging. He said this applicant and others are making the Town address this issue sooner than through the Unified Development Ordinance (UDO) process. Commissioner Crouch said he supports the idea and thinks it provides good value and an interesting service to the community, although he would not necessarily support it in all districts.

Commissioner Piper said this issue is basically specific to this property, so this is just cleaning up something that has already been happening.

Commissioner Carew said this is a good fit for NB and could have potential for some other districts as well. He noted that The Veggie Wagon has not been the focus of complaints despite this taking place for many years.

Vice Chairman Hogan said this is a great addition, and he is in favor.

Chairman Rouse said there is new trend of people having a drink while they shop. He said he has no problem with this request but wants the Commission to be cautious of expanding too much and obliterating parts of the Land Use Plan.

**ACTION:** Motion that the Commission, whereas in accordance with the provisions of the North Carolina General Statutes, does hereby find and determine that the adoption of the following ordinance amendment to amend Chapter 40, Article III – Zoning District Regulations, Article IX – Development Standards for Particular Uses, and Article XVIII – Definitions to Create Standards for Wine Shops and Beer Shops is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans as presented

Motion made by Vice Chairman Hogan, Seconded by Commissioner Boswell

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto

*Motion passed unanimously*

### **NON-AGENDA ITEMS**

Mr. Hardison said the next UDO meeting is on Wednesday, which will start a deeper dive into the process.

### **ADJOURNMENT**

Chairman Rouse adjourned the meeting at 6:30 PM.



## AGENDA ITEM COVERSHEET

**PREPARED BY:** Gloria Abbotts, Sr Planner

**DEPARTMENT:** Planning &  
Development

**MEETING:** Planning & Zoning Commission – April 13<sup>th</sup>, 2023

**SUBJECT:** **Text Amendment** to amend Chapter 40, Art. XVII. – Definitions to amend the definition of Gross floor area, outdoor.  
Applicant: Town of Carolina Beach

### **BACKGROUND:**

Town Council requested that staff look at the definition of Gross floor area, outdoor, in regard to the parking requirements for eating and drinking establishments. The current ordinance allows no parking for outdoor gross floor area (GFA) if the establishment is within 500 feet of public parking. Additionally, a 50% reduction in the parking requirement shall apply to outdoor GFA if the establishment is not within 500 feet of public parking. Currently, gross floor area, outdoor is defined as any unenclosed areas where business is conducted. Additionally, the area shall be considered enclosed if any type of vertical surface other than typical mesh screening has been installed, whether temporary or permanent. Vertical surfaces shall include plastic roll downs, or similar devices that prevent the free flow of air and weather into the commercial area. Gross floor area is measured from the exterior building walls of the use and includes all floors where the business is conducted.

The current eating and drinking establishment parking requirements were adopted in 2008 changing the parking requirement from parking spaces per seats to a gross floor area calculation. The distinction between open areas was created to limit confusion on what was considered open and enclosed.

### **Proposal:**

The new language defines gross floor area, outdoor as any unheated areas where business is conducted. Any outdoor areas shall meet NC building code. This new definition allows for eating and drinking establishment owners to temporarily enclose any outdoor areas without the requirement of adding additional parking. An outdoor GFA would be considered indoor GFA if renovations permanently created heated space for the establishment. This allows eating and drinking establishments to operate during the off-season while also giving staff clear guidance for enforcement of the minimum parking regulations. Enforcement of the current ordinance is difficult as eating and drinking establishments must continue to be monitored to ensure



adequate parking is installed if open areas are converted to enclosed areas. This negative effect was presented when the ordinance was changed in 2008.

**Recommendation:**

Staff proposes to clarify the definition language to give clearer guidance on the distinction between indoor and outdoor gross floor areas.

**Land Use Plan:**

The text amendment is in general conformity with the 2020 Land Use Plan by promoting a healthy year-round economy.

**ACTION REQUESTED:**

Consider recommending approval or denial of the text amendment.

**MOTION:**

Approval – to amend Chapter 40, Art. XVIII. Definitions. to amend the definition of Gross floor area, outdoor.

Denial – to amend Chapter 40, Art. XVIII. Definitions. to amend the definition of Gross floor area, outdoor.

# Ordinance 23-1203

Town of Carolina Beach  
Town Council



AN ORDINANCE TO amend Chapter 40, Art. XVII. – Definitions to amend the definition of Gross floor area, outdoor.

**Sec. 40-548. - Definitions**

*Gross floor area, outdoor*, means any ~~unenclosed~~ unheated areas where business is conducted. Any outdoor areas shall meet NC building code. ~~The area shall be considered enclosed if any type of vertical surface other than typical mesh screening has been installed, whether it is on a temporary or permanent basis. Vertical surfaces shall include plastic roll downs or similar devices that prevent the free flow of air and weather into the commercial area. Vertical surfaces shall not include enclosures for garage areas.~~

Adopted this 9<sup>th</sup> day of May, 2023.

TOWN OF CAROLINA BEACH

\_\_\_\_\_  
Albert L. Barbee, Mayor

ATTEST:

\_\_\_\_\_  
Kimberlee Ward, Town Clerk