

# CAROLINA BEACH

Planning and Zoning Minutes  
Thursday, July 11, 2019 @ 6:30 PM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

## ASSEMBLY

The Town of Carolina Beach Planning and Zoning was held on Thursday, July 11, 2019 at 6:30 PM at Council Chambers.

PRESENT: Keith Bloemendaal, Deb LeCompte, Mike Hoffer, Wayne Rouse, Melanie Boswell, and John Ittu

ABSENT:

ALSO PRESENT: Director of Planning & Development Jeremy Hardison

### CALL TO ORDER

The meeting was called to order at 6:27 p.m. by Chairman Bloemendaal.

### APPROVAL OF MINUTES

Planning & Zoning - June 13, 2019 Meeting Minutes.

- a. Commissioner Rouse made a motion to approve the minutes.  
Chairman Bloemendaal seconded, all were in favor (7-0).

### STAFF REPORT ON RECENT COUNCIL MEETINGS

Mr. Hardison reported on the recent Council Meeting held July 9, 2019.

There were two items that were Planning and Zoning related, one was a request for an extension for a CUP on Lake Park and Bertram. CUP's are good for 2 years but because construction did not start this has been extended for 12 months for the business center which they have applied for a building permit. Also a CUP for a 6 unit 400 block of Canal Drive was also approved.

### STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported on the recent activities in the Planning and Development Department.

Staff Update - July 11th, 2019

#### Permitting -

28 Permits (renovation, repair, grading, additions)

12 Residential New Construction

20 Certificates of Occupancy

#### Code Enforcement -

17 Complaints Received

11 Resolved

**New Business -**

Publix – Is Open!

Permits Applied for 1322 LPBN - this is the business that applied for an extension.

Demolition – 702 Harper

Demolition – 109 Cape Fear - formally the outside area of Jack's Retreat plan is to start after the season has ended.

Demolition – 304 S. 6th

Demolition – Surf Side Hotel - 3 parcels for a total of 300 linear footage at 234,236, & 302 CBAN

Food Trucks -

2 that have opened - 1 at the corner of Lake Park Blvd and Hamet which is Ice Cream and the other on Canal Dr and that is Snoballs.

FEMA Elevation project on the 800 block of Canal Dr.

Up coming LUP meetings - July 16th Open House, August 8th at the regular P&Z meeting for review and recommendations and September 10th Regular Council meeting for a Public hearing to adopt the LUP. The final draft can be found at <https://www.carolinabeachcamaupdate.com/>.

**Special Events -**

Double Sprint Triathlon - Saturday 13th 7:00 AM – 10:30 AM

Got-Em-On King Mackerel Classic - July 12-14

CB Swim - start at Alabama and ends at Hamlet Sunday 14th 8:00 AM – 10:00 AM

**Technical Review Committee -**

CUP modification for Hurricane Ally's

Mixed use Text Amendment

Review one way street on Wilson Avenue

Recommendations on Public Nudity ordinance

Preliminary Mixed Use Development Plans in the CBD

Commissioner Rouse asked would the development that is north of the gazebo on Canal Dr would that be a CUP or can they do that by right. Mr. Hardison replied there is a requirement/certain square footage which is 20,000 square feet before it would kick into a CUP.

**PUBLIC DISCUSSION**

Chairman Bloemendaal opened the public discussion.

- a. Consider a rezoning request from R-1 to R-3 to rezone 25 properties on the south side of Sumter Ave from the 400 block of Sumter Ave to the Sunny Point buffer, and to include 804 & 803 S. Sixth st and 804 S 4th st. Applicant: Karen Graybush

Mr. Hardison reported on the Rezoning of the 400 block of Sumter Ave -

**Purpose of Zoning Districts -**

Regulate the height and size of buildings;

Regulate the intensity of land usage;

Regulate areas for open space;

Regulate the location of land uses;

The goal of this is to promote the health, safety and general welfare of its citizens, the town and its extraterritorial planning jurisdiction are hereby divided into the following zoning districts:

#### **Rezoning -**

Area proposed to be rezoned from R-1 to R-3. In this area there are 14 - Single-family, 7 - vacant lots (3 of have applied for a permit for duplex units), 2 - Mobile homes, and 1 - two-family dwellings. Regarding the 3 lots that are in transition prior to any change they have a choice to which code they would like to follow. There are 22 property owners and 10 are 12,000 sq. ft. and 15 that are 5,000 sq. ft. Chairman Bloemandaal asked what would happen to the 15 properties with 5,000 sq. ft. Mr. Hardison replied at present they have the option to split the lot and make 2 build able lots. If it were rezoned as R3 they do not have the ability and they would have to follow the minimum lot size which is 12,000 sq.ft. If the lot is already 5,000 sq.ft. it can still be developed but only as a single family dwelling. When subdividing a lot you need to meet the minimum lot size requirement. Commissioner Rouse asked if there is an existing multifamily which would be demoed what would happen then. Mr. Hardison replied Non conforming language does protect structures damaged by wind/rain/hurricane/fire you can rebuild on the same footprint. If wanting to renovate you are grandfathered in to a point which would be 50% of the value of the structure once you exceed your construction cost with the improvements then that's when you would have to conform to the current regulations.

Mr. Hardison added the major difference between the zones are – R1 does allow for single and two family residential dwellings with 5,000 sq. ft. lots with front yards at 20', height at 45' and R3 is single family only with 12,000 sq. ft. lots with a larger front yard at 25', height at 40'. Setbacks for rear and side are the same as well as the maximum lot coverage at 40% structure coverage. Sumter Ave was the dividing line back in the 80's. The vision of this area in our LUP is consistent with the ordinance, this is a residential area which includes single-family and duplex units. This also identifies as moderate minimum of 5,000 sq. ft. lots with up to 15 units per acre. With this stand point staff would recommend this area be kept R1. The commission has the option to deny the request or you would have to have an approval statement saying that this not consistent with the LUP and the reason for this finding.

#### **Questions for Mr. Hardison -**

Commissioner Kennedy asked how many non-conforming lots are there. Mr. Hardison responded that every lot meets the minimum 5,000 sq.ft. Commissioner Kennedy then stated we would go from 0 to 15 non-conforming lots and Mr. Hardison confirmed that is correct.

Commissioner Rouse stated that staff is recommending to keep this as R1 correct. Mr. Hardison replied correct to coincide with what the LUP states.

Chairman Bloemandaal made a recommendation to open the public hearing.

Karen Graybush resides at 518 Sumter Ave. Feels the zoning line would go down the middle of a block so that the streetscapes face each other and the density stayed consistent. R1 and duplexes are not consistent for the conformity of the single-family neighborhood in that area. Feels if

duplexes are built on the south side of Sumter would change the feel of the neighborhood and would become cluttered which is primarily mostly single-family homes with full-time residents, feels it's just that simple.

George resides at 404 Sumter Ave. He would like clarification on the 2family home on the 400 block of Sumter. Mr. Hardison replied that house faces 4th Street. He supports Karen's comments and feels it's a consistency and integrity issue for the neighborhood. Feels that we should keep the integrity of the neighborhood they bought into. Feels the traffic in multi-unit homes rather than single-family homes changes the complexion drastically. Said Mayor Benson stated in an article that we have more of a year round community. Our concern is residents that are trying to raise families we now become inundated with short-term rentals.

Alicia Devereaux resides at 801 Alabama Ave – she is real estate broker and represents the client in the sale of the 3 vacant lots, 517, 519 Sumter and 803 6th Street. Ms. Graybush contacted her via text asking the price and whether they were zoned single or 2 family. Ms. Graybush sent a letter stating she would be pursuing the rezoning of these lots. She feels that the main focus were the contracts on the 3 lots across the street from her home and that the buyers were going to build two unit buildings on each lot. She feels the rezoning request is not only taking away an owners private property rights but subsequently negatively affecting their property values. She respectfully requests the denial of this rezoning application.

Nancy Hamilton resides at 510 Sumter Ave. Loves her neighborhood and feels the duplexes would decrease the value of her home. All of her neighbors want to keep the single family homes. She hopes for the consideration of the rezoning to R3.

Sharon Walters lives at 701 Sumter Ave and has been there for 38 years. She loves everything about the neighborhood. She doesn't want multiple family units on her street.

Diane Warner owns property at 617 Sumter Street and has been here for over 60 years. She would like to build nice structure duplexes for her family and wouldn't build a bunch of junk. She would definitely go against this and would like the commission to consider to keep it like it is.

Michael Barrett property owner of 701 Sumter Ave. Feels going back to R3 would be the way to go. I support Karen's comments and feels this would create more traffic.

Brian Work resides at 804 South 6th Street and is against the rezoning. Feels the 800 block of South 6th Street represents a good cross-section of what Carolina Beach is. Feels the rezoning will affect the people that already own properties and he respectfully request that they deny the rezoning request.

Trisha Keene resides at 406 Oceana Way and is against the rezoning. She is a Realtor and represents the buyers of the 3 lots in question. She received a text from Ms. Graybush asking if her buyers had any intention of putting duplexes on the lots, she told her that yes they are planning on building duplexes that would fit in with the neighborhood. Ms. Graybush sent a letter stating that she was going to attempt to rezone the area because she didn't want duplexes built. In the letter that she sent to Ms. Devereaux and myself stated that maybe there could be some discourse during this process. Ms. Graybush approached her clients and they in turn sent her a statement regarding

their concerns. Ms. Graybush stated that Sumter Ave was miss zoned and that she and her neighbors plan to put in for a rezoning of the 3 lots. She also stated she was on the Land Use Steering Committee and said that it would be very likely that this would get rezoned. The experience was very discouraging and they are seriously considering dropping out of the deal and that they plan to meet with town officials to discuss their concerns. Her personal concerns are if it is rezoned then everyone would be affected and feels this should be left alone. She feels that someone that's on a committee and then using that seems like an abuse of power and feels it was very intimidating.

Barbara Bass resides at 117 Leaver Court in Kure Beach. She sold a lot at 409 Sumter in May the buyer received a letter regarding the rezoning and feels he may need to sell the land. She in turn spoke with Mr. Hardison and he told her they can still build but there would be some changes and that they would have to have the paper work in before the possibility of any rezoning. Her concern is her clients put faith in her and then there are possibilities of spot changes or spot zoning. She is against the change from R1 to R3.

Chris Edwards he represents Brian Dictor the owner of 409 Sumter. Mr. Dictor objects to the change and so do others and he believes it's unreasonable and unfair to require the zoning to go through in this way. He feels it's inconsistent with the towns land use plan.

Michael Murphy lives at 704 Sumter and is 100% behind Karen's request. Feels consistency is good and the homeowners that live on Sumter are the type of people that make the town what it is why change it.

Brian Graybush lives at 518 Sumter and is the applicant's husband. Feels the old way works in the neighborhood and doesn't understand why zoning would be split down the middle of the street. His wife's intention is to work towards affordable single-family housing for new families. Is concerned regarding the density of the town. Think about the density and splitting the zoning down the middle of the street.

Karen Graybush feels there has been a little bit of character assault tonight. Yes, she is on the Land Use Committee and was asked her opinion of what I thought might happen. She has stated numerous times in meetings how overwhelming the process is but is learning along the way. She can sell houses and do surgery but she doesn't know all the laws when it comes to zoning. She admitted to the calls and the texts and the inquiries regarding strange trucks in her neighborhood. Regarding the late date she was in the hospital and wasn't able to get the paperwork together. She had no malicious intent and wants the best for her neighborhood.

Chairman Bloemandaal made a motion to close the public hearing.  
Commissioner Rouse second, all were in favor.

Mr. Murphy added regarding zoning Carolina Beach has dozens of streets that are divided. Stated 4th Street is another division of R1 and R3 right down the middle and within the town it's not uncommon. The basic definition of spot zoning is when rezoning a piece of property and surrounded by a larger area of uniform zoning. This is not the case of spot zoning.

Commissioner Kennedy asked Mr. Murphy was there a purpose for the zoning to be down the

middle of the street. He added that we use streets because they are consistent and it makes it easier to divide which played a factor whenever the lines were drawn decades ago.

Commissioner LeCompte stated there are 15 lots that are Conforming. If the zone is changed there would be more lots that would become non-conforming. We need to consider the families that have invested in lots with the thoughts of building multi-family units. Feels it makes sense to leave it as R1.

Commissioner Rouse just to confirm, the request is to move the line that currently is in the middle of the street south a half a block on the rear property boundary, correct. Mr. Hardison replied correct it would go down the middle of the block between Spartanburg and Sumter.

Commissioner Kennedy just to restate there are 4 lots with 4 duplexes they can submit preliminary plans down the road correct. Mr. Hardison stated this board would make a recommendation and then it would go to Town Council for August 10th meeting. She stated Land Use Plans are designed and developed for many reasons one is for consistency and how we want the community to be.

Commissioner Boswell asked if there were any HOA's in place for any of the lots. Mr. Hardison replied there are no HOA's in the area but there could be when there are multiple units on a property.

Chairman Bloemandaal spoke with Ms. Graybush regarding the lots when they went on the market and was not comfortable with them as a builder. Stated going from R1 to R3 the setbacks go from 20' to 25' and a height limit from 50' to 40' and density changes from 15 to 3.6. In doing so all of the properties would be devalued in his opinion. Feels building a duplex across the street from a single-family house does not devalue a house.

Commissioner Hoffer stated zoning is for consistency, for comfort and when you buy a house you know what you're getting and you know what's going to happen to the property and to the property next to you. When you buy a house in the residential neighborhood you know there's not going to be a gas station next to you, that's zoning. When you invest in a property you know what you can do with it, that's also zone. He won't support this change. Furthermore you didn't buy a house across the street from 2 empty lots you bought the house across the street from 2 lots that don't have duplexes yet and that's just the way it is.

Commissioner Kennedy spoke on the options that the neighborhood could look into HOA's for the neighborhood.

Commissioner Ittu stated his concerns and that is this zoning has been in place since the 80's and if passed properties would be devalued and he is not in favor of this.

Commissioner Rouse suggested that someone from P&Z attend the next Town Council meeting August 8th. Commissioner LeCompte will be there.

**ACTION:** Commissioner Boswell made the motion the commission deny the adoption of the following ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plans and/or other long range planning

documents.

Commissioner LeCompte seconded, all were in favor (7-0).

Vote: UNANIMOUS

b. Text Amendment: Sign Ordinance Update

Text Amendment: Update Sign Ordinance -Reed V. Town of Gilbert 2015  
JUNE 13TH, 2019 -

Mr. Murphy reported on the Sign Ordinance and stated this is no longer a Text Amendment. This is more of an education discussion and will be reworked and possibly back to P&Z in August. This is a work in progress which we will be coming back with a draft and asking for you input.

**Background**

- Sign ordinances are utilized primarily for aesthetical and economic purposes
- Free speech generally overrides any state, county, or local sign ordinance
- Sign ordinances may not be “content-based” in almost all circumstances

**Supreme Court Decision**

- In 2015 the Supreme Court heard the case of Reed V. Town of Gilbert
- The Town of Gilbert had a sign ordinance with 23 exempted categories and each category was treated differently based on the content
- The Ninth Circuit Court of Appeal initially upheld the exceptions
- The Supreme Court determined that the sign ordinance and its exceptions were based on the “face” since the content of the signs dictated their limitations

**Local Ordinance Implications**

- CB sign ordinance currently has 11 sign categories that are regulated individually and are based on content
- Governmental
- Window/door signs
- Real Estate/off-site
- Political
- Open
- Patriotic
- Government required
- Construction/Future Development
- Subdivision
- Nonprofits
- Special events

**Revisions**

- Addition of location restriction to prevent traffic sight distance triangle obstructions
- Addition of a catch-all category for “temporary non-commercial signage” with regulations pertaining to aesthetics and time-frames only.
- Remove categories specifically regulating Construction, future development, political, patriotic, and real estate signs.

- Clarified/corrected language throughout Article 8

### **New Regulations for Signs Allowed without Permits**

(1) Temporary non-commercial signage.

a. One temporary sign related to an activity or event may be placed on a parcel 30 days prior to said activity/event, remain up during said activity/event, and must be removed within 10 days of the conclusion of said activity/event.

b. This sign must be non-illuminated and may not exceed 20sqft or 5ft in height.

c. The person, party, or parties responsible for the erection or distribution of any such signs shall be jointly liable for the removal of such signs.

d. The property occupant or, in the case of unoccupied property, the property owner, shall be responsible for violations on a particular property.

e. No temporary signage is permitted in the public right-of-way.

f. Off-site directional signage must be related to an event, will only be permitted while the activity/event is on-going, and must be removed within 48 hours of the conclusion of said activity/event.

g. No commercial business or product shall be advertised on a residential property.

### **Amend Chapter 40, Article VIII Sign Regulations**

(1) It is recommended that Planning and Zoning 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 these forms:

- A Statement of Approval –The Commission, 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 Article VIII to update the sign ordinance to comply with the 2015 Supreme Court decision 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 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.

## **DISCUSSION ITEMS**

### **a. Stormwater and BMP Discussion**

Mr. Murphy reported on Stormwater ordinance rewrite and we are still working on this and at present these are very generic proposals. He looked at other communities such as Pawley's Island with population of 100 and they have some bad stormwater problems and some strict stormwater solutions for deal with it. Another was off the coast at Bellevue, Washington which is categorically larger than Carolina Beach. They have a bunch of triggers in regards to stormwater management



and how they utilize BMP's and on-site. Looked in Atlanta they have some excellent ideas for green infrastructure. Haddenfield, New Jersey as well as Nags Head. Looking at different communities and finding what's been successful, some focus on BMP or on-site development and others have their citizens be more responsible.

### **Stormwater Ordinance Proposals**

1. Driveways and parking cannot be impervious
  - a. Lot coverage/SW practices for all parcels shall remain the same
  - b. All driveways and parking associated with both residential and commercial development shall be required to be compromised of pervious materials.
  
2. Impervious surfaces are limited to 60%.
  - a. Lot coverage will remain the same
  - b. Impervious surfaces will be reduced to soft cap of 60% of a lot.
    - i. This would provide 40% (zone depending) for structures and another 20% for driveways, sidewalks, patios, etc.
    - c. Additional "hardscaping" could be completed only if:
      - i. all stormwater from the development is contained onsite OR
      - ii. Fee is \$5.00/sqft for any development beyond the lots 60% soft cap OR
      - iii. All is pervious
  
3. Lot Coverage and Impervious are the same limit
  - a. Lot coverage and impervious surfaces will both be limited based on zoning district.
  - b. Any additional hardscaping for driveways, sidewalks, or additional development is only permitted if:
    - i. All stormwater can be retained onsite
    - ii. If the materials utilized are permeable so that there is no additional runoff created.
  
4. Consider BMPs
  - a. Downspout disconnections
  - b. Rain barrels
  - c. Other ideas?

### **Questions for Mr. Murphy -**

Commissioner Kennedy would like Mr. Murphy to research the option of a Reclaiming Systems for the residents as well as the town feels this needs to be town wide.

Chairman Bloemandaal asked for some examples of Hardscaping. Mr. Murphy replied Hardscaping is our term for anytime you reduce the natural landscape down to concrete, asphalt. Going from a permeable surface such as dirt, grass, sand, drip through decking to a non-pervious surface like concrete, asphalt. Chairman Bloemandaal would like examples for duplexes and also the consideration of each unit. And to research as many options like what Tracy Skrabal from NC Coastal Federation had presented to P&Z.

Commissioner Boswell added the possibility of adding the Reclaiming Systems such as rain gardens around the lake posting with some education behind it.

Commissioner Hoffer would like to have some consideration to lot sizes and to encourage eliminating of fees.

**ACTION:** Review proposed ordinance ideas and provide feedback.

Vote: UNANIMOUS

. **NON-AGENDA ITEMS**

Mr. Hardison spoke regarding the election of the P&Z Commissioners, Town Council approved the current members to be reappointed.

Commissioners voted to keep Chairman Bloemandaal and Vice Chair LeCompte for another year.

Commissioner Rouse seconded, all were in favor (7-0).

. **ADJOURNMENT**

Commissioner LeCompte made a motion to adjourn the meeting.

Commissioner Rouse seconded, all were in favor (7-0).