



**CAROLINA BEACH**  
**PLANNING AND ZONING MEETING**  
**MINUTES • JULY 14, 2016**

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<b>Council Chambers</b>	<b>Regular Meeting</b>	<b>6:30 PM</b>
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**1121 N. LAKE PARK BLVD.**  
**CAROLINA BEACH, NC 28428**

**I. CALL TO ORDER, ROLL CALL & WELCOME NEW MEMBERS**

Chairman Reynolds called to order the meeting and welcomed the new commissioners, Nan Toppin and Jerry Kennedy.

**II. MINUTES APPROVAL**

Commissioner Grady made a motion to approve the minutes. Commissioner Bloemendaal seconded the motion. All were in favor (5-0).

1. Planning and Zoning - Regular Meeting - Jun 9, 2016 6:30 PM

**III. STAFF REPORT ON RECENT COUNCIL MEETINGS**

Town Council approved the CUP's for the Welcome Inn and 303 S. Third Street. Town Council also approved the Development Line as presented by Staff. The Annie Drive paving project has been completed.

**IV. PUBLIC DISCUSSION**

There was no public discussion.

**V. ITEMS FOR PUBLIC COMMENT**

1. Amend Chapter 40 Article III, Sec 40-172 Table of Permitted Uses; Article V Off-street parking and loading requirements; Article VI Landscaping and Development Specifications Standards Sec 40-176 Buffer yard landscaping; Article IX Development standards for particular uses, Sec. 40-261 and Article XVIII Definitions to address Boatyards Applicant: David Pierce

*(Requested by Jeremy Hardison, Planning and Zoning)*

Commissioner Grady asked what the Town Attorney said. Mr. Hardison answered that there has been no response from the Town Attorney. The UNC School of Government responded that a recombination of the lots is good practice, but not required. Each lot would need to be treated as an individual use, meet all ordinance requirements.

Commissioner Kennedy asked that if the proposed amendment would affect all properties in MB-1. Mr. Hardison answered yes. Commissioner Kennedy asked how many nonconforming lots were located in the district. Mr. Hardison answered that there may be four or five. Commissioner Kennedy asked if any of the applicant's lots are nonconforming. Mr. Hardison responded that there are, one of the conditions of the CUP were to recombine the lots. A recombination plat was signed by staff but never recorded. No building permit could be issued prior to the lots being recombined. Each lot would have to be looked at as a stand alone use. Commissioner Kennedy asked what could encroach into a setback. Mr. Hardison responded that parking could be located with a setback but not within a landscaping buffer.

Commissioner Grady asked if business had already been expanded. Mr. Hardison answered that neither a zoning permit or driveway permit has been issued for the lot on Saint Joseph Street. The Applicant is aware business use has expanded, and can either amend CUP or amend the text.

Chairman Reynolds asked if the Joyner Marina had a CUP. Mr. Hardison responded no and that the CUP requirement had been put in place in the early 2000's.

Chairman Reynolds disclosed that he has worked for the applicant but does not feel he needs to recuse himself. There were no objections by the other Commissioners.

Commissioner Kennedy was concerned with the text, under Article III. - Zoning District Regulations, Sec. 40-72. - Table of permissible uses, wording allowing for recreational land vehicles to be stored at a marina in addition to boats. Mr. Hardison responded that the applicant wanted allowance to have boats stored in the MB-1 district.

Commissioner Toppin asked Mr. Hardison why the wording of the time of operating hours changed from 7am to daylight hours under Article IX. - Development Standards. Mr. Hardison answered that it was done for simplicity. Commissioner Toppin stated that 7am would leave no room to vary in time.

Commissioner Bloemendaal made a motion to open the Public Hearing. All in favor (5-0).

David Pierce, 917 Basin Road. Applicant. Mr. Pierce has worked hard not to impose on the neighborhood. Yacht club beside and marina on other side all supportive of business. Does not allow excess noise on weekends. Cares about the neighborhood. The MB-1 zoning district was designed to accommodate Marinas and applicant's property is the last space for one. Mr. Pierce stated that there was a separate permit for the property on Saint Joseph that Mr. Hardison had stated did not have a permit. Commissioner Grady clarified that she had questioned if the lot from Saint Joseph that has a driveway cut through to the marina had a permit. Mr. Pierce does not feel he should be penalized for operating a use intended for the zoning district. The Crane (Whale) utilized at the Marina is not operated on the weekends. This is a service to the island. Mr. Pierce also feels that recombining the properties would decrease the value of his lots. For legal reasons, the properties are in different names.

Commissioner Grady responded that the applicant could later subdivide.

Commissioner Bloemendaal stated that by allowing the applicant not to recombine it would be creating a nonconforming situation for the town. Commissioner Kennedy added that if the lots are not combined, setbacks will still need to be met on each lot. Not combining limits the use of the property to where buildings can be placed.

The Applicant explained that if building new structure he would combine two lots. Applicant does not feel should have to buffer two properties owned by same person. Commissioner Bloemendaal added that if one of the lots were sold it would create an enforcement issue for the Town. Commissioner Kennedy stated again to the applicant that individual lots would have to meet setback and buffer requirements.

Commissioner Bloemendaal asked why the Applicant wants a permitted use when he currently has a CUP. Applicant does not want to have to continue amending the CUP. Concerned that changing Council's could influence what he's allowed and not allowed to do. Feels Marina should be permitted by right in the Marina Business District.

Currently all uses on the property are permitted. Feels that someone new coming in to do the same type of business would be permitted to do more because they would not have the restrictions of a CUP.

Commissioner Grady asked if marinas were permitted by right, would a buffer be required. Mr. Hardison responded that a buffer would be required around any commercial use.

Commissioner Kennedy asked what the setbacks were and if the applicant would have to setback from another lot he owned. Mr. Hardison responded yes. Mr. Pierce stated that he would recombine if necessary.

Commissioner Kennedy is also concerned about recreational vehicles listed under same use. Mr. Hardison stated that the two uses could be separated out.

Commissioner Toppin reiterated that the time of operation should be set from 7am to dusk.

Commissioner Bloemendaal asked about the amended parking standard. Mr. Hardison responded that the update was maintenance to the ordinance to remain consistent with the Marina use.

Chairman Reynolds made a motion to close the Public Hearing and it was seconded by Commissioner Grady. All in favor (5-0).

The Commissioners were in agreement that the properties owned by the Applicant should be recombined. They also agreed with limiting the hours of operation from 7am to dusk and to make the Marina use permitted by right.

Applicant asked to clarify that 8' fence would be in lieu of 10' landscape buffer. Mr. Hardison explained that the 10' buffer would just be around exterior of property yet still required. A fence would be an additional, not required buffer. Asked the Commissioners to consider removing the buffer yard requirement if a fence was used. Argued that an 8' fence would make a much better buffer than a 10' buffer yard.

The Commissioners were in agreement to recommend an 8' fence in lieu of a landscape buffer.

Commissioner Kennedy wants Article III, Sec. 40-72, permitting the storage of recreation vehicles, separated out and not permitted in MB-1.

Commissioner Bloemendaal made a motion to approve amending Chapter 40 Article III, Sec 40-172 Table of Permitted Uses; Article V Off-street parking and loading requirements; Article VI Landscaping and Development Specifications Standards Sec 40-176 Buffer yard landscaping; Article IX Development standards for particular uses, Sec. 40-261 and Article XVIII Definitions. Whereas in accordance with the provisions of the NCGS 160A-383, the Planning and Zoning Commission does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans. The Commission makes the following adjustments; Amend the wording for the start time to 7am, separate out the use for recreational vehicles, and allow for an 8' fence in lieu of a required landscape buffer yard. The Commission also recommends to make a marina use permitted by right in the MB-1 District. Commissioner Kennedy seconded the motion. All in favor (5-0).

2. Consider setting a public hearing date for August 9, 2016 at 7:00 pm or soon thereafter to amend Chapter 40 Article III, Sec 40-172 Table of Permitted Uses; Article V Off-street parking and loading requirements; Article IX Development standards for particular uses, Sec. 40-261 and Article XVIII Definitions Applicant: Richard Jones

*(Requested by Jeremy Hardison, Planning and Zoning)*

Chairman Reynolds asked about why an area threshold was proposed to be put on the outdoor area exceeding indoor area. Mr. Hardison answered that the size of outdoor area is currently not controlled and that it has the potential to expand and to serve alcohol. The intent is to put controls on the area to protect nearby residential districts.

Commissioner Bloemendaal asked why restrictions are being placed on serving alcohol in a closed area. Mr. Hardison reiterated the intent to limit outdoor area due to the close proximity to residential district.

Commissioner Kennedy asked if the state controlled some requirements for a brewery. Mr. Hardison answered that there are and that they differ between a bar and a brewery.

Chairman Reynolds voiced interest in what other communities do and would like to encourage the Town to accommodate breweries. Asked Mr. Hardison If there were similarities between here and other cities/towns. Mr. Hardison answered that there are, but it is up to how the community feels about breweries and its comfort level.

Commissioner Kennedy asked if the text was changed to allow outdoor recreation if outdoor recreation use could be used on another industrial zoned lot. Mr. Hardison responded yes.

Commissioner Bloemendaal made a motion to open the Public Hearing and it was seconded by Chairman Reynolds. All in favor (5-0).

Patricia Jones, 612 Carolina Beach Avenue North. Applicant. Gave an overview of Good Hops and the history of the property at 811 Harper. The applicant would like the brewery to live in harmony with the neighbors. Want to have same opportunities as other breweries across the state. Concerned that proposed options presented by Mr. Hardison are too restrictive. Ms. Jones assured the Commissioners that Good Hops is following all ABC regulations. Good Hops operates differently than a bar, and the issue is addressed by the NC ABC commission. Ms. Jones feels the disc golf promotes natural vegetation. Believes a CUP would never be feasible (bar) because of the buffer requirement. The purpose of a brewery is to drink beer while experiencing brewing process. On site wine was added to control people bringing in own wine for consumption to the brewery. The use of other breweries beer adds to the brewing experience.

Chairman Reynolds asked if Good Hops was originally limited on operating hours. Ms. Jones responded that there was never a limit on operating hours. Typically they beginning brewing in the early morning and are ready to end the day by 8pm.

Commissioner Toppin asked when Good Hops was originally permitted by right it was with two main conditions: No serving other beers and bar area would not exceed 20% of space. Asked if they have complied. Ms. Jones responded they do comply with both conditions, and that the addition of on site wine was approved by the Town. Commissioner Toppin asked if they are serving beer from other breweries. Ms. Jones responded yes. Commissioner Toppin asked how wine permit was allowed. Mr. Parvin informed the commissioners that the permit was issued in error by Town Staff. By

Town code they should not be selling wine. Commissioner Toppin asked if the Town has an eating and drinking establishment definition. Mr. Parvin responded yes, it is categorized as either a bar, standard restaurant, or eatery. Commissioner Toppin stated that since the conditions for a brewery were not originally followed, a good case is made for the need for a CUP requirement. Ms. Jones responded that Good Hops has followed the model of other breweries.

Commissioner Kennedy asked for clarification as to which zones breweries are allowed in. Chairman Reynolds responded in the Industrial and Highway Business zones.

Commissioner Kennedy asked Ms. Jones if the business's outdoor space was already exceeding 50% of indoor space. Ms. Jones responded yes.

Chairman Reynolds stated he is concerned the Town is missing an opportunity. He has observed that it seems the Town has been trying to move away from requiring some CUP's.

Christopher Richards, 6620 Sable Palm Drive. Designed disc golf course and is President of the Pleasure Island Disc Golf Club. Mr. Richards feels that the course brings activity to the island and is utilizing land that would not otherwise be used.

Karen Graybush, 518 Sumter. Patron of Good Hops and is comfortable having meetings there, bringing kids there. Family/community oriented, not like a bar. Feels it is a healthy way to expose kids to alcohol.

Jennifer Brown, 805 Alabama, Kure Beach. Stated that there are few places on the island where adults and kids can go. Not a bar atmosphere and many groups can use the space for their meetings.

Ethan Crouch, 932 Searidge. In support of Option 1 as well as removing restrictions on outdoor space.

Brian Graybush, 518 Sumter. Also agrees in removing the restrictions on outdoor space.

Ms. Jones reiterated to the Commission that Good Hops is only following the model of other breweries. Commissioner Bloemendaal asked for what changes to the Ordinance the Applicant would prefer. Ms. Jones responded that although they are comfortable with 50% allowable serving area in Option 1, but they feel that outdoor space cannot be limited. Ms. Jones is not in support of the CUP requirement in Option 2.

Commissioners Kennedy and Bloemendaal iterated that they did not feel the size of the outdoor space could be limited.

Commissioner Grady questioned if size of lot and the amount dedicated to recreation could be a provision. Commissioner Bloemendaal voiced that he is not in favor of limiting this.

Chairman Reynolds asked Ms. Jones if it was Good Hops intention to allow people to consume anywhere on the four acres. Ms. Jones responded yes. Mr. Reynolds stated that ALE could have concerns about containment.

Commissioner Toppin asked if there were any ALE restrictions keeping kids out of a brewery. There are no age restrictions, only age restrictions on who can be served.

Commissioner Toppin stated she was in support of the disc golf course, but is interested in including wording to limit noise. Asked Ms. Jones what the brewery's relationship is like with neighbors. Ms. Jones answered that they have a good relationship and work hard to address any complaints that have arisen.

Commissioner Bloemendaal made a motion to close the Public Hearing and it was seconded by Commissioner Grady.

Commissioner Bloemendaal stated that he once looked at starting a brewery, but the current code was too difficult to work with. He does not feel outdoor area should be restricted. Asked Mr. Hardison to define service area verses consuming area. Mr. Hardison clarified serving area as the area where alcohol is being served. Consuming area would still be considered serving area.

Chairman Reynolds asked if any of the Commissioners would be interested in limiting the types of beer being served. None of the Commissioners felt this was necessary.

There was further discussion that limiting the size would not differentiate between a bar or a brewery. A brewery is required to meet certain requirements set forth by the State ABC Commission.

Commissioner Toppin stated that breweries and bars may not be the same thing but should be regulated with CUP's. Feels there is a lot that can go wrong with this type of use.

Commissioner Bloemendaal clarified with Mr. Hardison that breweries are currently permitted by right. Mr. Hardison responded yes. Commissioner Toppin stated that one of the options was to require a CUP if certain service thresholds were exceeded. Commissioner Bloemendaal stated that with a CUP, a permit cannot be denied so long as it meets the seven specific standards and four general conditions of a CUP, and would add three months to a new business gaining approval.

Commissioner Kennedy feels CUP's have been over used, thus why applicants are coming back to amend the code.

Mr. Hardison clarified that Good Hops does not have a current CUP. The brewery is at the threshold where either the text needs to be amended or they need to apply for a CUP as the 20% serving area threshold stated in the current text has been exceeded.

Chairman Reynolds asked what Staff's recommendation was. Mr. Hardison responded that Staff's recommendation is Option 2.

Commissioner Bloemendaal made a motion to amend Chapter 40 Article III, Sec 40-172 Table of Permitted Uses; Article V Off-street parking and loading requirements; Article IX Development standards for particular uses, Sec. 40-261 and Article XVIII Definitions. Whereas in accordance with the provisions of NCGS 160A-383, the Commission does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans. The Commission recommends Option 1, striking 3A and 3B. The motion was seconded by Chairman Reynolds. Four Commissioners (Grady, Bloemendaal, Reynolds, Kennedy) were in favor, one Commissioner (Toppin) was against (4-1).

## **VI. APPOINTMENTS FOR CHAIRMAN AND VICE CHAIRMAN**

1. Appointments: The Commission will appoint a Chairman and Vice-Chairman for a one year term.

*(Requested by Jeremy Hardison, Planning and Zoning)*

Appointments of Chairman and Vice Chairman.

Commissioner Bloemendaal nominated Chairman Reynolds for Chair. It was seconded by Commissioner Kennedy. All Commissioners voted in favor (5-0).

Commissioner Grady nominated Commissioner Bloemendaal for vice Chair. It was seconded by Chairman Reynolds. All Commissioners were in favor (5-0).

**VII. NON-AGENDA ITEMS**

Chairman Reynolds wished to correct a typo in the minutes from the April 2016 meeting. The wrong general statute was referenced. It was corrected.

**VIII. ADJOURNMENT**

Commissioner Bloemendaal made a motion to adjourn. It was seconded by Commissioner Grady. All in favor (5-0)

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Kimberlee Ward, Town Clerk

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Date Approved