



CAROLINA BEACH
TOWN COUNCIL MEETING
MINUTES • APRIL 11, 2017

Council Chambers **Regular Meeting** **6:30 PM**

1121 N. LAKE PARK BLVD.
CAROLINA BEACH, NC 28428

1. CALL MEETING TO ORDER WITH INVOCATION AND PLEDGE OF ALLEGIANCE

Attendee Name	Title	Status	Arrived
Dan Wilcox	Mayor	Present	
LeAnn Pierce	Mayor Pro Tem	Present	
Steve Shuttleworth	Council Member	Present	
Tom Bridges	Council Member	Present	
Gary Doetsch	Council Member	Present	
Michael Cramer	Town Manager	Present	
Ed Parvin	Assistant Town Manager	Present	
Debbie Hall	Finance Director	Present	
Kim Ward	Town Clerk	Present	
Noel Fox	Attorney	Present	

2. ADOPT THE AGENDA

Mayor Wilcox made a motion to adopt the agenda. Motion carried unanimously.

3. SPECIAL PRESENTATIONS

- a. Discussion of H.B. 271 by Ethan Crouch

(Requested by Tom Bridges, Town Council)

Ethan Crouch with Surfriders Foundation presented their opposition of H.B. 271 - An Act to Repeal the Ban on Plastic Bags in Certain Coastal Areas. He asked that the Carolina Beach Town Council join their neighbors in passing a resolution in opposition of House Bill 271 and Senate Bill 539.

Mayor Wilcox said that he typically does not like to pass resolutions that affect other jurisdictions but he feels that each municipality should have the ability to do these things within their power. His first inclination would be to pass a resolution to support their ability to have that legislation.

MPT Pierce said she agreed with the Mayor.

Council Member Shuttleworth felt it should be a local municipal decision and that is the message we would like to send to Raleigh.

Attorney Fox clarified that the General Assembly adopted special legislation that gave the Outer Banks the right to ban plastic bags and they are now proposing to take it away.

Council Member Doetsch asked if this gets repealed, what are the chances of any other legislation like that enacted from other municipalities.

Ms. Fox said that would be special legislation and that she could not speak for the General Assembly.

Council Member Doetsch recommended that council send a resolution of support for the Outer Banks that are trying to keep this in place.

Council Member Bridges agreed with that request.

Mr. Crouch said that the environmental committee is meeting on the 20th of April for their first vote. One other thing to consider is that there is a Senate Bill that has also added an amendment to appeal this as well. Dare County has a resolution that includes SB 539.

Council Member Shuttleworth made a motion to ask the Manager to come up with a resolution stating that Carolina Beach does not support HB 271 and Senate Bill 539. Motion carried unanimously.

b. Freeman Park Committee Presentation by Steve Casey

(Requested by Michael Cramer, Town Manager's Office)

Steve Casey, Chairman of the Freeman Park Committee presented some recommendations to council.

Items they are requesting include:

- Installing a park attendant booth at the entrance to Freeman Park. Council asked the committee to get more details and bring this back to them.
- Modifying the signage at the entrance. There are redundant signs and some signs are too small to read.
- Restricting All Wheel Drive vehicles from Freeman Park. The majority of vehicles getting stuck are AWD.

Mayor Wilcox suggested not using an aluminum attendant booth. It would not last long in the salt environment.

Mr. Casey mentioned that the committee wanted to present the ideas to Council and Council could charge the committee with doing more research.

MPT Pierce expressed concerns about the wind rating of the booth.

Mr. Cramer said this style booth could be removed.

Council Member Shuttleworth said he likes the idea of having a booth at the entrance of Freeman Park. He would like for staff or the committee to bring back some proposals.

c. Brief Special Events April & May

(Requested by Brenda Butler, Planning & Development)

Brenda Butler presented the events scheduled for April and May.

d. 2017-2022 Parks, Recreation and Open Space Master Plan

(Requested by Eric Jelinski, Parks & Recreation)

Dr. Herstine, UNCW Professor and Contractor, presented an overview of the 2017-2022 Parks, Recreation and Open Space Master Plan. Adoption of the plan is only for future guidance and no funds are being requested. The adoption of the plan will help with scoring of future grant applications.

Mayor Wilcox said that he has not had time to read the 250 page document. He asked if there was an executive summary.

Dr. Herstine said that there is an executive summary in the first chapter.

Mr. Cramer reminded Council that they are being asked to vote on adopting the plan. This is just a planning document that reports what the community has asked for. Council is not voting on particular items that are listed in the plan, it is a plan for moving forward and how we need to implement it.

MPT Pierce said that she did not realize that Council was voting on it because she has not seen the plan.

Mr. Cramer said the plan is on the website and it is not necessary to vote on it tonight.

e. Town Manager Update

(Requested by Michael Cramer, Town Manager's Office)
Michael Cramer gave the following updates:

Dogs on the beach - The police have been out enforcing dogs on the beach. At least four citations were issued over the weekend. Several have been appealed to the Police Chief. The signs have been replaced from Sail Fish Lane south. The rest should be up by tomorrow.

Marina- We ran into quite a few challenges with the soils. This area was a bog type marsh at one point and it had fill covering it. We have stopped excavation and secured everything so we don't have any problems with the soil running off into the marina. We found water lines running through the marina that no one knew about. We also found concrete walls that were from previous buildings that were left there. We hope to have cost estimates soon. There is a potential to recoup some of the cost from FEMA because of Hurricane Matthew. The projected completion date is 45 to 60 days.

Public Resource Ranger- We had 25 applications and hope to have a candidate picked by the first part of next week. There is an item on the consent agenda to fund \$30,000 for the beach ranger position and a part time (20 hours) ranger for the remainder of this budget year. Chief Spivey has developed a field training manual that will cover the areas they will enforce.

Mayor Wilcox asked to have a copy of the field training manual.

Phase B- We were slightly behind about 4 or 5 days in getting the east side of Lake Park Boulevard paved. It is completed now. They have moved most of their crews to the west side of Lake Park Boulevard. They should have the first section covered with asphalt in 30 to 45 days. The streets will be clear for Easter weekend.

Lake Dredge- We did soil samples and found a lot of organic materials in the mat before you get down to the good sand. That is making us rethink how we are going to get the barge into the water and whether or not we need to excavate some things first or use another containment system to dry out the silt. They started moving dirt today and doing some test digs on the west side. We are approximately 30 days behind.

4. OLD BUSINESS

No old business was presented.

5. PUBLIC DISCUSSION

Patrick Boykin, 712 Glenn Avenue mentioned that the Solid Waste Center was not put on the March 28th workshop agenda as Mayor Wilcox asked. He discussed the negative results the Solid Waste Center has had on his property value.

Mr. Cramer advised we would put this on the April 25th workshop.

Rick Both, 206 Penninsula Drive thanked council for not voting on the Parks Master Plan without reviewing it. He is concerned that the Ryder Lewis Park is not included.

Mr. Cramer responded that the Ryder Lewis Park will be discussed at the April workshop.

Elaine Terrell, 502 Fern Creek Lane thanked council for having the public restrooms open all year. Also, the new signs for the dogs are small. There were 15 dogs on the beach today between Hamlet and the North Pier.

6. PUBLIC HEARINGS

- a. Conditional Use Permit Modification: Harris Teeter Grocery Shopping Center/Big Box Store that will be located at 1000 & 1010 N Lake Park Blvd. Applicant: BBM Associates Inc. – Alan Maness

(Requested by Jeremy Hardison, Planning and Zoning)

The following persons were sworn in by the Town Clerk to speak or give testimony:

Ed Parvin

Jeremy Hardison

John Lennon

Michael Lee

Jonathan Guy

Steve Coggins

Alan Maness

Jeremy Hardison presented the plans for the Harris Teeter Project at 1010 North Lake Park Boulevard.

The stoplight will remain in its current location at the Federal Point Shopping Center. It will be a right in/right out entrance/exit. The entrance and the fuel pumps have swapped so the fuel pumps are closer to the Wings store. As a result, there is a landscaping buffer yard reduction of the required 10 feet. There is now a four foot stretch of grass until you get to the edge of the pavement. We are also providing a northbound deceleration right turning lane to enter the site and re-establishing the five foot sidewalks and landscape buffer on the street yard. They will be moving the entrance 100' to the south. DOT recognizes there will be increases in delay for the stoplight. Their analysis called for a southbound turn lane into the site but they realize this is the third time Harris Teeter has been before you and the difficulty they have had trying to acquire right of way in that area. There is a resolution that would allow the project to move forward without the DOT recommended turn lane into the Federal Point Shopping Center. DOT would issue the permit for the development site if Council approves the resolution.

There are seven specific standards and general conditions.

The condition of approval includes: Provide drainage easement in order to accommodate an underground stormwater best management practice.

Planning and Zoning approved the plan 7-0.

Mayor Wilcox opened the public hearing.

Attorney Michael Lee with Lee Law Firm representing the applicant spoke on the four general conditions that include:

It will not materially endanger the public health or safety.
It was determined at initial approval to not materially endanger public health/safety.

Meets all required conditions and specifications.
As evidenced in the original staff report, current staff report and TRC review, the project meets the various requirements of the code with a landscaping variance noted.

It will not substantially injure value of adjoining or abutting property.
The property is vacant with one structure. The development of the proposed project will improve the current location and the value of surrounding properties.

The location and character of use are in harmony with the area.
CAMA Land Use Plan/Commercial 1 and the current zoning is HB. CU continues commercial nature of site and transportation improvements resulting from the project will enhance the character and use of area

Jonathan Guy, traffic engineer stated that the Harris Teeter will generate fewer trips than it did in the past when the Federal Point Shopping Center was active.

Attorney Steve Coggins representing Wings said that Wings regrets not being in better communication and participation for the past two years. They are supportive of the project and look forward to working closely with Harris Teeter. They also do not see a need for the vegetative buffer that is between the south side of the Wings store and the proposed development. It would enhance the interconnectivity between the two parking lots.

Mayor Wilcox said the timing is unfortunate. It sounds like Wings wants to integrate now and take advantage of some of the traffic. We were disappointed that they were unwilling to have discussions and cooperate to help us get the best project for the community.

Mayor Wilcox asked about the vegetative buffer.

Mr. Lee responded that if Council does not want to require the vegetative buffer, the applicant would not object to that. Whether there is interconnectivity or not, the parties will have to discuss after tonight.

Mayor Wilcox closed the public hearing.

Council Member Doetsch made a motion to approve the conditional use permit 7 specific conditions and four general conditions, landscaping per the site plan and the property owner to work with our town engineer to expand the existing drainage easement to accommodate the Best Management Plan in accordance to the grant rule.

Attorney Fox asked Council if they wanted to exclude the buffer that Mr. Coggins

spoke about as a condition.

Mayor Wilcox said that he thinks they could give them the option and then it is up to them whether they want to exclude it or not.

Council Member Shuttleworth said that he supports the motion and wants to leave it up to the applicant on how they want to handle the buffer. The Federal Point Shopping Center has mentioned that they are planning to redevelop that space. We are going to drastically impact traffic not only on North Lake Park Boulevard but St. Joseph Street as well. We are going to have to come back and look at the triangle at the end of St. Joseph.

Mayor Wilcox stated that he has to go with what the traffic engineer has come up with for a conditional use permit but he understands.

MPT Pierce agreed with Council Member Shuttleworth saying we are going to have traffic issues.

Council Member Bridges is concerned because DOT has required the town to sign a resolution stating that we are aware of the traffic hazards and we are ok with moving forward. This island is not the same as it was in 1984 when Federal Point Shopping Center was constructed. We have a lot more traffic.

Motion carried unanimously.

- b. Text Amendment to Chapter 28 Sec 28-62 beach services to amend the maximum of number of non-motorized permits from two to three on the municipal beach strand. Applicant: Tony Silvagni

(Requested by Jeremy Hardison, Planning and Zoning)

Jeremy Hardison presented the request to add a third beach services permit.

Mayor Wilcox opened the public hearing.

Nan Toppin, 104 South 6th Street quoted Sean Cook regarding the gentleman's agreement between Duke Hagestrom and himself. She has educated herself on the Sherman Anti-trust Act and this is in violation of this Act. This gentleman's agreement does not benefit the Town or the citizens.

Wes Bell, 405 Greenville Avenue asked council to level the playing field.

Missed his name - business is increasing on the island. He would rather have a professional putting out the umbrellas so no one gets hurt. Give competition a chance.

Melanie Boswell, 107 Island Palms Drive is in favor of the town issuing three permits. Issue a lottery for the permits if you are going to only allow two.

Duke Hagestrom, 920 Riptide Lane spoke in favor of allowing storage beginning April 1 and three storage locations. He spoke against allowing three beach services permits. He is concerned with market saturation.

Suzzana Cromby, 407 Hamlett Avenue feels that there is enough business for a third permit holder. She has witnessed umbrellas flying through the air and hitting people. It is important to have experienced employees installing these

Applicant, Tony Silvagni, 101G Cape Fear Boulevard says there is enough demand for three beach service permits. He has been working with Jeremy Hardison to come up with pros and cons. He is suggesting that he could limit the hours that the Gator is on the beach. He is asking to be treated fairly with a level playing field.

Susan Hill from The Cape is an attorney by trade and feels the demand is there. Carolina Beach is growing. It is not Council's job to get involved in the personal relationships of businesses of the beach. Instead of limiting the permits, limit the amount of equipment that is on the beach.

Doug Rutlinger, 225 Colquitt Drive feels that Tony has met and exceeded everything that has been asked of him and would be an asset to the growth of Carolina Beach.

Jason Stanley, 506 Surf Drive in Kure Beach feels that if the Town issued Tony a permit it would even the playing field.

Anthony Niveleo feels it is time to bring a third party into the mix based on the increased population.

Hearing no further discussion, Mayor Wilcox closed the public hearing.

Mayor Wilcox asked Attorney Fox if we are in violation of the law.

Ms. Fox responded that this has nothing to do with the Sherman law.

MPT Pierce reminded everyone that it wouldn't necessarily be Tony's permit as everyone is speaking of. It would be a third permit whoever gets it.

MPT Pierce is concerned on how much equipment is being stored on beach.

Council Member Bridges asked if the permit could be revoked if the holder violates the rules.

Mr. Cramer said yes.

Mayor Wilcox reminded everyone that this is not personal. He likes all three parties involved. He feels that customers are not going without service and feels that two beach services is servicing the needs. Tony is currently renting chairs and umbrellas as an itinerant merchant.

Council Member Doetsch feels that limiting the ATV's might not be a bad idea. He supports the third vendor and competition is good for everybody.

Council Member Bridges is concerned about the storage of the chairs. The storage of chairs could interfere with turtle nesting.

MPT Pierce said she is not much of a fence sitter but she is sitting on the fence.

Council Member Shuttleworth is not opposed to getting rid of the ATV's all together. MPT Pierce agreed.

Council Member Shuttleworth made a motion to approve Ordinance 17-1051.

Mayor Wilcox said if you approve it and you come back in a year after someone makes a major investment, that's not good.

Council Member Bridges said that you can always revisit the ordinance.

Motion carried unanimously.

- c. Consider amending Chapter 40 Sec. 40-72. to allow for Animal Care Facilities In the Highway Business (HB) zoning district by Conditional Use Permit. Applicant: Susan Bondy

(Requested by Jeremy Hardison, Planning and Zoning)

Jeremy Hardison presented the request for an allowance for an Animal Care Facility with an outdoor area in the Highway Business Zoning District.

Staff is requesting that it be a Conditional Use Permit if it has an outdoor area or run in the HB Zoning District.

Animal Care Facilities with outdoor areas shall meet the following standards:

- Shall maintain compliance with all federal, state, and local regulations.
- Must be located 200 feet from a residential use in a residential district.
- Shall not be located in the front yard and must meet a minimum setback of 5' from the side and rear property lines.
- Shall provide a minimum 6' barrier that 80 percent opacity. Barriers higher than 6' in height may be approved as a condition of the CUP.

Planning & Zoning recommends approval for the allowance in HB with animal care facilities with outdoor areas. This use is not directly addressed in the 2007 CAMA Land Use Plan. The proposed amendment is generally consistent with the 2007 CAMA Land Use Plan with policies encouraging and promoting local businesses geared toward providing services to the community.

Mayor Wilcox opened the public hearing.

George Pace from Wilmington spoke in favor of the animal care facility.

Paul Leitkze, 440 Hidden Valley Road spoke in favor of the animal care facility.

Elizabeth Leitkze, 440 Hidden Valley Road said that Sue is the only boarder that will take animals that have not been neutered.

Mayor Wilcox closed the public hearing.

Mayor Wilcox made a motion to approve 17-1044. Motion carried unanimously.

- d. Conditional Use Permit: For an animal care facility with outdoor area located 1140 N. Lake Park Blvd unit C, D and E. Applicant: Susan Bondy

(Requested by Jeremy Hardison, Planning and Zoning)

The following were sworn in by the Town Clerk:

Sue Bondy, Applicant
Jeremy Hardison, Senior Town Planner
Ed Parvin, Assistant Town Manager

Jeremy Hardison presented the request for the condition use permit for the proposed animal care facility.

The following are the seven specific standards that the applicant must make provisions for:

Ingress and egress to property (automotive and pedestrian)

No proposed additional driveway cuts
Traffic pattern will remain the same
Proposing to close the drive thru

Parking

Will remain the same within the shopping center - 77 spaces

Refuse

Roll outs will continue to service the properties.

Utilities, with reference to locations, availability, and compatibility;

No upgrades are planned to the Water and Sewer services. No impervious areas will be added. Existing Fire in front of the property

Screening and buffering with reference to type, dimensions, and character;

Providing 5 ft.' buffer around the outside area

Signs

A signage plan will be approved by staff that meets the sign regulations.

Required yards and other open space

No structures are proposed

Each dog shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144. The calculation is: $(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6) = \text{required floor space in square inches}$. $\text{Required floor space in square inches} \div 144 = \text{required floor space in square feet}$.

Planning and Zoning recommended approval 7-0

Mayor Wilcox opened the public hearing.

MPT Pierce said that she was concerned about this being so close to the day care.

The applicant, Susan Bondy said that there is a demand in Carolina Beach. She will be laying artificial turf over concrete slab so the dogs cannot dig out of the fence.

Mayor Wilcox closed the public hearing.

Mayor Wilcox made a motion to approve the Conditional Use Permit to Susan Bondy for the animal care facility. She meets the seven specific standards, four general condition, and four additional conditions. Motion carried unanimously.

7. CONSENT AGENDA

Mayor Wilcox made a motion to approve the consent agenda. Motion carried

unanimously.

The following items were approved under the consent agenda:

Set public hearing for May 9, 2017 to consider amending Chapter 28 Sec. 28-60 to allow surfers within 500' of the Town's fishing pier during special events.

Resolution 17-2156 supporting dedicated state revenue source for beach nourishment.

Resolution 17-2157 supporting a permit for the Harris Teeter development without a southbound left turn lane.

Budget amendments and transfers as presented by the finance director.

Minutes from March 14, 2017

Minutes from March 28, 2017

8. NEW BUSINESS

- a. Consider Adoption of a Resolution 17-2155 in Support of a Grant Application to the NC Division of Water Infrastructure for a Drinking Water Project

(Requested by Jerry Haire, Grant Administration)

Jerry Haire presented Resolution 17-2155 in support of applying for a grant from the NC Division of Water Infrastructure - State Reserve Project Program - Drinking Water System.

The proposed drinking water project is part of the scheduled Phase C Infrastructure Project for replacement of approximately 5,220 linear feet of water lines and associated infrastructure along Harper, Wilson, Lumberton, and Florence Avenues from Lake Park Boulevard to 4th Street, and 3rd Street from Harper Avenue to Goldsboro Avenue.

The Town was approved in February for a low interest loan through this program for \$1,273,216 with an interest rate not to exceed 1.53%. The proposed project budget would utilize the remaining allowable balance of the \$3 million maximum.

The water system serving the project area is approximately 50 years old and has degraded over time due to material deterioration as well as localized or point damage from activities such as construction, installation of underground utilities, and storm damage. Tuberculation, corrosion, and buildup of water impurities have created water quality issues and contribute to water pressure and flow issues that exist within the system.

The total engineer's cost estimate and proposed grant request is \$1,726,000. Any approved funding would offset the need to utilize recently approved municipal bond monies for the project. The submittal deadline is April 28, 2017.

Council Member Bridges made a motion to approve Resolution 17-2155. Motion carried unanimously.

- b. Consider Adoption of Resolution 17-2154 in Support of a Grant Application to the NC Division of Water Infrastructure for a Wastewater Project

(Requested by Jerry Haire, Grant Administration)

Jerry Haire presented Resolution 17-2154 in support of applying for a grant from the NC Division of Water Infrastructure - State Reserve Project Program - Wastewater System.

The proposed wastewater system project is for part of the scheduled Phase C Infrastructure Project for replacement of approximately 2,278 linear feet of gravity sanitary sewer and associated infrastructure along Goldsboro, Wilson, Lumberton,

and Florence Avenues from Lake Park Boulevard to 3rd Street and 3rd Street from Harper Avenue to Goldsboro Avenue.

The system is approximately 50 years old and in a state of deterioration and failure due to component degradation from age and damage occurring as a result of use in a coastal environment.

The condition has created significant I&I issues leading to sink holes exposing gravity sewer lines, undermining roadway surfaces and creating conditions where sanitary sewer spills or sanitary sewer overflow can occur.

The total engineer's cost estimate and proposed grant request is \$1,342,000. Any approved funding would offset the need to utilize recently approved municipal bond monies for the project. The submittal deadline is April 28, 2017.

MPT Pierce made a motion to approve Resolution 17-2154 in support of applying for the grant. Motion carried unanimously.

- c. Clarify when noise violations exist and processes for enforcement

(Requested by Ed Parvin, Planning & Development)

Ed Parvin reviewed the recommended changes to the noise ordinance.

The following updates were made to the noise ordinance:

- Describes excessive noise
- Added definition of noise disturbance
- Clarifies that 75 decibels applies to all commercial areas.
- Describes method for determining unreasonable noise without decibels.
- Struck redundant sections.
- Explains when an absentee owner is responsible for a violation.
- Added the appeals process which gives 14 days for an appeal. The appeal will go to the chief of police.
- Updated the rates and fees schedule which includes the levels of violations.

Mayor Wilcox said he thought what was coming back to Council was a residential on residential noise ordinance.

Ms. Fox said it is but they had to strike some things to make that provision fit the existing ordinance.

Mayor Wilcox stated that he has a problem with having "nuisance noise" and decibel levels.

Council Member Bridges made a motion to adopt 17-1052 to amend the noise ordinance and 17-1053 to amend the rates and fees as it pertains to noise ordinance violations. Motion passes 4 to 1 with Mayor Wilcox voting no.

9. NON-AGENDA ITEMS

Council Member Bridges was asked by a citizen to mention purchasing the land that the carnival leases. Council was not interested.

Mayor Wilcox said there are noise violations with businesses at the boardwalk. People are also leaving the boardwalk a mess by leaving food and trash in the outdoor seating area. We need to send a letter to the business owners because we don't want to punish the ones that are in compliance.

Mr. Parvin said that we have discussed the noise on the boardwalk. The Town could try to control that.

Mayor Wilcox would like to see the Town invest in a sound system that covers the boardwalk.

Council Member Shuttleworth asked about forming a business improvement district.

Mayor Wilcox said that is not a bad idea but we need to address the businesses in violation before the season.

Council Member Shuttleworth asked the manager to handle it.

Council Member Doetsch asked why the light poles on the east side are still up.

Mr. Cramer mentioned that AT&T is requesting a separate easement to put their utilities underground.

10. CLOSED SESSION TO DISCUSS AN ATTORNEY/CLIENT MATTER

Mayor Wilcox made a motion to go into closed session to discuss an attorney/client matter in accordance to N.C.G.S 143.318.11(a)(3). Motion carried unanimously.

Mayor Wilcox called the meeting back to order at 11:00 p.m. and reported that no action was taken in closed session.

11. ADJOURNMENT

There being no further business, Mayor Wilcox adjourned the meeting at 11:00 p.m.

Kimberlee Ward
Kimberlee Ward, Town Clerk

5.9.17
Date Approved

Dan Wilcox
Mayor

Tom Bridges
Council Member

Steve Shuttleworth
Council Member



LeAnn Pierce
Mayor Pro Tem

Gary Doetsch
Council Member

Michael Cramer
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2996
FAX 910 458 2997

ORDER GRANTING A CONDITIONAL USE PERMIT MODIFICATION

Applicant: BBM Associates, Inc
Location: 1000 & 1010 Lake Park Blvd N.
Tax Parcel Number: 313006.48.3405.000 & 313006.48.4244.000

The Town Council of the Town of Carolina Beach, having held a public hearing on April 11, 2017 to consider approving a Conditional Use Permit for a retail/big box store and where sworn testimony was heard from the following persons: Assistant Town Manager Ed Parvin, Applicants Attorney Michael Lee, Traffic Engineer Jonathan Guy and Attorney Steve Coggins
The following uncontested facts were presented:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

A portion of the property adjacent to Lake Park Blvd. will be dedicated as right-of-way to accommodate a desal lane going into the property. The applicant is proposing to keep the stoplight located at the entrance of Federal Point shopping center where it is. Cross easements will be recorded for interconnectivity from both sites. The development will utilize the existing drive off of Saint Joseph St. A 5' Sidewalks will be provided along N. Lake Park Blvd. A pedestrian connection through the site to St. Joseph St. Staff had discussed interconnectivity or stub outs to south side properties. Based on constraints the applicant stated that they could not accommodate stub outs.

- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;

Parking and loading spaces

- 53,288 sq. ft. = 266.4
- 5,480 addition sq. ft. = 27.4
- Provided = 266

- 3 loading zone spaces required

Parking requirements would have to be met prior to issuance of a building permit for the 5,480 sq. ft. addition.

- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;

A Trash compactor will service the grocery store and a dumpster will be located by the fuel center.

- (4) Utilities, with reference to locations, availability, and compatibility;

Adequate upgrades are planned to the Water and Sewer services. Drainage will be captured on site through a stormwater pond detention system.

- (5) Screening and buffering with reference to type, dimensions, and character;

The proposed plans provide the required Type B 10' setback buffer along the perimeter of the property, except where noted on the landscaping plan. The landscape buffer adjacent to the Wings property may be waived by the applicant. The applicant is asking for a variance to the requirement consecutive parking spaces shall incorporate landscaped peninsulas no more than fifteen (15) spaces apart and at the ends of all parking rows.

- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

A signage plan will be approved by staff that meet article 7 of the zoning Ordinance.

- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

Setbacks

Proposed and required setbacks for the project are as follows:

Zoning Setbacks	Front	Rear	North Side	South Side
<i>HB required</i>	30'	20'	10'	10'
<i>provided</i>	246'	340'	32'	46'

HB zoned properties allow for a maximum lot coverage of 60%. The total lot coverage of the project is 32%.

General conditions.

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;

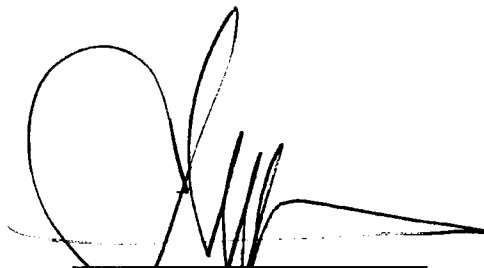
The plan meets the ordinance and long range plans and policies

- (2) That the use meets all required conditions and specifications;

After review by staff the plan has been determined to meet all conditions and specifications except for the Landscaping requirements and reduction of sidewalk as noted.

- 14) Parking requirements would have to meet prior to issuance a building permit for the 5,480 sq. ft. addition.
- 15) The property owner shall work with the Town's engineer to expand the existing drainage easement in order to accommodate an underground stormwater best management practice (BMP).

Ordered this 11th day of April, 2017.



Dan Wilcox, Mayor

ATTEST:

Kimberlee Ward
Kimberlee Ward, Town Clerk





ORDINANCE NO. 17-1044

Amend Chapter 40 Zoning, Sec. 40-72 Table of Permitted Uses, Sec. 40-150. - Off-street parking standards, Sec. 40-261 Development Standards for Particular Uses, and Sec. 23.3 Definitions

Sec. 40-72. - Table of permissible uses.

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
<u>Animal hospitals, with boarding of domestic animals (See section 40-261)</u>											P			
<u>Animal Care Facility</u>											P			
<u>Animal Care Facility with Outdoor Area (See section 40-261)</u>											C			
<u>Veterinary establishments</u>											P			P

Sec. 40-150. - Off-street parking standards.

Types of Uses	Number of Required Parking Spaces
<u>Animal hospitals- Animal Care Facilities</u>	<u>1 per 300 sq. ft. of gross floor area</u>

ARTICLE IX. - DEVELOPMENT STANDARDS FOR PARTICULAR USES

Sec. 40-261.

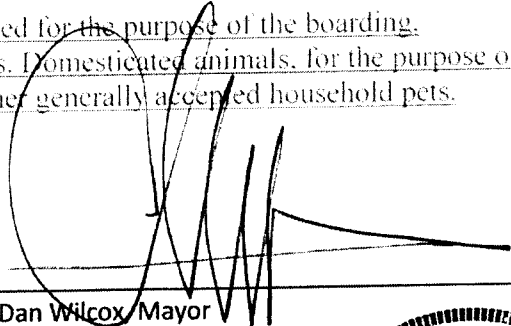
Animal Care Facilities with outdoor areas shall meet the following standards

1. Shall maintain compliance with all federal and state regulations.
2. Located 200 feet from a residential use in a residential district.
3. Shall not be located in the front yard and must meet a minimum setback of 5' from the side and rear property lines. If the outdoor area encroaches into the required buffer yard a Conditional Use Permit is required.
4. Shall provide a minimum 6' barrier that 80 percent opacity. Barriers larger than 6' in height may be approved as a condition of the CUP.

Sec. 40-546 Definitions

Animal Care Facilities. Any commercial facility used for the purpose of the boarding, treatment, grooming, or sale of domesticated animals. Domesticated animals, for the purpose of this ordinance, shall be defined as dogs, cats, and other generally accepted household pets.

Kimberlee Ward
Attest: Kimberlee Ward, Town Clerk



Dan Wilcox, Mayor

April 11, 2017
Date Approved



Ordinance 17-1051

Town of Carolina Beach
Town Council



Amend Chapter 28 Section 28-62 to change the allowance of the number of beach service permits from two to three for the municipal beach strand.

Sec. 28-62. - Beach services.

(a) *Definition.* The term "beach services" shall be defined as the act of renting items on:

- (1) The municipal beach strand; or
- (2) Freeman Park.

(b) ~~Business plan and permit issued by the Town Manager or his designee contract between town and business owner.~~ Applicants shall provide a detailed business plan describing in detail all activities, monies, and other arrangements proposed for review and approval by the Town Manager. Only complete applications meeting all the criteria of this section shall be accepted for a beach service permit. Fees shall be submitted in accordance with the budget ordinance. The following conditions shall apply to all permits:

- (1) ~~Beach service permits shall be valid for one year a time specified by town council at the end of which the contract shall become null and void. At the contract holder's request, a new contract may be reviewed by the town council for approval as regulated by this Code at that time. All contracts are nontransferable.~~

Existing beach services shall submit a request for permit renewal on or before March 1 of each year. All beach service permits shall expire on March 31 of the following year. New beach services shall be issued permits during the period between March 1 and March 31 of each calendar year unless a permit is or becomes available during the year. Beach services shall be considered in the order in which a complete application was accepted by the town. The list of applications shall be kept on file in the Department of Planning and Development.

- (2) A log of beach service activities shall be maintained stating, at a minimum, date, total inventory rented, time started, and time stopped. This log shall be available for inspection by the Town Manager upon request for ~~contract permit~~ renewal. If beach services did not occur on 50 percent or more of the days between June 1 and August 31 then the ~~contract permit~~ shall automatically require town council review prior to renewal.
- (3) Applicants shall acquire and maintain liability insurance naming the town as an additional insured entity for not less than \$1,000,000.00.
- (4) Rental chairs and rental umbrellas may be stored on the ocean beach with the approval of the town council. The location and the method of storage shall be approved by the Town Manager subject to the following standards.
 - a. The applicant shall submit a notarized agreement holding the town harmless with regard to any theft, loss, damage or injury as a result of the licensees operation and storage of material on the beach.

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Town of Carolina Beach
Town Council

- b. The storage of product will only be allowed beginning ~~April~~ May 1 and ending on September 30 and is subject to other state and federal laws.
 - c. No more than three storage area locations per beach service permit.
 - d. No more than one 4 x 4 wood post per storage area. The post shall be located at the toe of the dune and outside of the emergency lane.
 - e. The Town Manager may, at any time and for any reason, suspend the right to store material on the public beach. At the direction of the Town Manager, the product and all containers associated with the storage chairs and umbrellas shall be removed or moved to another location on the beach strand within 24 hours of verbal or written notice.
- (5) Applicants shall have access to sufficient space in the commercial district for storage of inventory, equipment, and vehicles used in the beach service operation.
- (6) Beach service operators shall not solicit beach patrons verbally or in an aggressive manner to rent items.
- (7) Hours of operation shall be limited from sunrise to sunset.
- (8) Contract Permit revocation.
- a. A contract permit may be revoked immediately by the ~~citing town official~~ *Town Manager or his designee* upon receipt of three violations of this article. A permit may be reinstated after review by town council at the request of the applicant. The applicant shall make available their log showing the beach services provided and a written explanation of the violations.
 - b. If the business closes, the beach service permit shall automatically be void/revoked.
- (c) *Freeman Park and municipal beach strand regulations.* The following regulations are specific to either Freeman Park or the municipal beach strand:
- (1) *Rental items.* Rental items shall be limited to:
- a. Non-motorized items, such as beach chairs, umbrellas, surfboards, body boards, cabana tents, or any other beach rental item as approved by the Town Manager *or his designee* ; and
 - b. Motorized items, such as personal watercraft or other items as approved by the Town Manager *or his designee*
- (2) *Freeman Park.*
- a. No more than three permits shall be authorized by the town: two for non-motorized items and one for motorized items.
 - b. Only standard operational 4x4 vehicles that are legally licensed, insured, properly inspected, have a Freeman Park permit, and in compliance with state statutes, particularly the operational and safety standards, shall operate under a beach services contract permit within Freeman Park. No golf carts, gators, motorcycles, ATVs, trailers (including boats and campers) shall be utilized for beach services operations within Freeman Park unless otherwise approved by the Town Manager *or his designee*
 - c. Non-motorized permit conditions. The business shall be opened and operational prior to obtaining a beach services contract permit. No beach service contract permit shall be accepted for proposed business locations.
 - d. Motorized contract permit conditions.

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1. Operations and safety. All personal watercraft shall operate in compliance with article II of this chapter, watercraft safety, and section 28-156, surfing and other water-related activities.
2. Fueling. No fueling shall be conducted on Freeman Park.
3. In no instance shall less than 30 feet or more than 50 feet of beach area be reserved to conduct personal watercraft rentals. Markers shall be placed perpendicular to the mean high-water line extending both on land and water a minimum of 30 feet and maximum of 50 feet to designate the water area as a "no swim zone" and the land area as an area for training and beaching personal watercraft. All markers shall have state and federal approval.
4. Users of Freeman Park shall not be requested to relocate if there is not ample space to begin daily rental operations.
5. Maximum number of personal watercraft for rental and/or lease shall be limited to five units.
6. Up to 20 square feet of signage may be utilized at the operational site after approval of a sign permit.

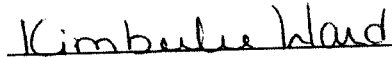
(3) *Municipal beach strand* .

- a. A maximum of ~~two~~ three non-motorized permits shall be authorized by the town.
- b. The beach service activity shall be operated from a primary business location in the central business district. The beach service shall be owned and operated by the owners of the business.
- c. The primary business shall have been opened and operational prior to obtaining a beach services permit. No beach services permit shall be accepted for a proposed business location. ~~The business shall remain opened a minimum of 150 days per calendar year.~~
- d. The beach service activity shall also be available at the primary business location at a similar cost. all times that rentals are available on the beach.
- e. Any vehicles and trailers used in connection with beach service shall be similar type all-terrain vehicles (ATV) as is used by the police department, and shall satisfy all OSHA and EPA requirements regarding emissions, noise, and impacts to the beach. Each license shall be limited to two ATVs. Drivers of ATVs shall be properly licensed and trained to operate said vehicles in a manner consistent with established police department standards.
- f. Access to the beach by an ATV shall be limited to Ocean Blvd., Hamlet Ave., and Starfish Lane.
- g. Items should be for transient delivery only and not displayed for rent or have any advertisement on the beach strand.

(Code 1986, § 8-48, Ord. No. 10-839, 6-22-2010; Ord. No. 11-862, 4-12-2011; Ord. No. 11-880, 10-11-2011)



Dan Wilcox, Mayor



Attest: Kimberlee Ward, Town Clerk

April 11, 2017

Date Approved





ORDINANCE NO. 17-1052

Amend Chapter 18 Article V to clarify noise control regulations

ARTICLE V. - NOISE CONTROL ORDINANCE

Sec. 18-131. - Title; scope.

This article shall be known as the "Noise Control Ordinance for the Town of Carolina Beach." It is recognized that excessive and unnecessary noise: (i) endangers the physical and emotional health and welfare of people who reside or vacation in the residential neighborhoods and on the beach strand of the town; (ii) interferes with legitimate family and recreational activities; (iii) depresses property and rental values; (iv) contributes to potentially violent confrontations among persons occupying neighboring properties or enjoying the beach strand; and (v) requires police and public safety resources to respond to such disturbances and confrontations.

~~This article shall be known as the "Noise Control Ordinance for the Town of Carolina Beach." It shall be unlawful for any person to create or assist in creating, or to permit the continuance of any unreasonably loud or disturbing noises in the town. Noise of such disturbing character, intensity or duration as to be detrimental to the quality of life or health of any individual is prohibited. This article shall apply to all sound, vibration, and noise originating within the corporate limits of the town. Nothing in this article shall be construed to limit or prevent the town or any person from pursuing any other legal remedies for damages or the abatement of noises in the town.~~

(Code 1986, § 10-4; Ord. No. 02-493, 1-8-2003)

State Law reference— Noise regulation, G.S. 160A-184; abatement of nuisances, G.S. 160A-193.

Sec. 18-132. - Definitions and standards.

- (a) *Definitions.* All definitions used in this article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amplified sound means any sound or noise, including the human voice that is increased in volume or intensity by means of electrical power.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designed dB(A).

Construction means erection, repair, assembly, alteration, landscaping or demolition of any building or buildings in sight.

Decibel (dB) means a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

Emergency work means any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Motorized vehicle.

(1) *Generally.* The term "motorized vehicle" means any vehicle as defined in G.S. 20-4.01(49), including, but not limited to:

- a. Excursion passenger vehicle as defined in G.S. 20-4.01(27)(a);
- b. Common carriers of passengers as defined in G.S. 20-4.01(27)(c);
- c. Motorcycles and mopeds as defined in G.S. 20-4.01(27)(d), (d.1);
- d. Truck tractors as defined in G.S. 20-4.01(48);
- e. Farm tractors as defined in G.S. 20-4.01(11).

(2) *Motor boat.* The term "motor boat" means any vessel which operates on water and which is propelled by a motor including, but not limited to, boats, barges, amphibious craft, water ski towing devices, and hover craft.

Noise means any sound or combination of sounds which, because of its volume or quality, tends to disturb reasonable persons of normal sensitivity or to interfere with normal human activity.

Noise disturbance means any unreasonably loud and raucous sound or noise which exceeds the Maximum Sound Pressure Levels as stated in Section 18-133.

- ~~(1) Endangers or injures the health or safety of humans or animals;~~
- ~~(2) Endangers or injures personal or real property; or~~
- ~~(3) Disturbs a reasonable person of normal sensitivity.~~

Nuisance noise levels means noise levels which do not exceed the noise thresholds but create an irritating impact sufficient to disturb an individual's sleep pattern or the peace and quiet of a residential neighborhood.

Outdoor amplified sound means any sound using amplifying equipment whose sound is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.

Person means any individual, association, firm, partnership or corporation.

Person responsible means an owner, occupant, employee, agent or any other person who is or appears to be responsible for a premises, dwelling, or business or a noise-producing machine or device.

Sound means any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.

Sound-amplifying equipment means any device for the amplification of the human voice, music or any other sound, including juke boxes, stereos and radios.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute Specifications for sound level meters (ANSI S1.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting network used to measure sound pressure levels.

Sound pressure level means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter.

(b) *Standards.* Standards, instrumentation, personnel, measurement procedures and reporting procedures to be used in the measurement of sound as provided for in this section shall be those as specified herein:

- (1) Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on "slow" response.
- (2) Sound level meters shall be of at least Type Three meeting American National Standard Institute Incorporated (ANSI) S1.4-1971 requirements. The entire sound measurement system shall be serviced and calibrated and operated as recommended by the manufacturer. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement.
- (3) The Town Manager or his designee (Chief of Police) shall issue a general order adopting standards and procedures for sound level measurements and enforcement consistent with this article.

(Code 1986, § 10-5; Ord. No. 00-454, 6-13-2000; Ord. No. 02-493, 1-8-2003)

Sec. 18-133. - General prohibitions.

Except as allowed in this article, no person shall willfully engage in any activity on any premises or public area in the town which produces or constitutes a noise disturbance on occupied neighboring premises or public area. Without limiting the generality of the foregoing, a sound or noise shall be deemed a noise disturbance if, when measured as prescribed herein, it exceeds the level set forth below:

- (1) *Residential area.* 65dB(A) (daytime level) between the hours of 7:00 a.m. and 11:00 p.m., or 55dB (nighttime level) between the hours of 11:00 p.m. and 7:00 a.m.
- (2) ~~*Central business district; harbor business; mixed use; and industrial.*~~ Commercial Districts. 75 dB(A) (daytime level) between the hours of 7:00 a.m. and 11:00 p.m., or 65 dB(A) between the hours of 11:00 p.m. and 7:00 a.m. On Friday and Saturday, the daytime levels shall remain in effect until 12:00 midnight.
- (3) This section shall not apply to activities for which permits have been issued pursuant to section 18-138.

(Code 1986, § 10-6; Ord. No. 02-493, 1-8-2003)

Sec. 18-134 Unreasonably loud noises prohibited.

(a) It shall be unlawful for any person to create or assist in creating, or to permit the continuance of any unreasonably loud or disturbing noises in the town between the hours of 9:00 pm and 7:00 am. Noise of such character, intensity and duration as to be detrimental to the quality of life or health of any individual is prohibited. Unreasonably loud and disturbing noise is limited to noise that is loud, raucous and disturbing and heard upon the public streets, in any public park, in any public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof. Factors to consider in determining whether a violation exists include, but are not limited to:

- i. The volume of the noise;
- ii. The intensity of the noise;
- iii. Whether the nature of the noise is usual or unusual;
- iv. Whether the origin of the noise is natural or unnatural;
- v. The volume and intensity of the background noise, if any;
- vi. The proximity of the noise to residential sleeping facilities;
- vii. The nature and zoning of the area within which the noise emanates;
- viii. The density of the inhabitation of the area within which the noise emanates;
- ix. The time of the day or night the noise occurs;
- x. The duration of the noise; and
- xi. Whether the noise is recurrent, intermittent, or constant.

(b) Scope. This article shall apply only to sound, vibration, and noise originating within a residential zoning district within the corporate limits of the Town. Nothing in this article shall be construed to limit or prevent the town or any person from pursuing any other legal remedies for damages or the abatement of noises in the town.

(c) The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of the investigating police officer or a duly authorized investigating person, shall constitute a valid determination of an Unreasonably loud noise.

(Code 1986, § 10-4; Ord. No. 02-493, 1-8-2003)

Sec. 18-1354. - Measurement of sound level.

In determining sound levels pursuant to this article, the standards, instrumentation, personnel, measurement procedures, and reporting procedures shall be as specified herein; and all terminology not defined herein or in section 18-132 shall be in conformance with the American National Standards Institute (ANSI).

- (1) Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on slow response.
- (2) Sound level meters shall be serviced, calibrated and operated as recommended by the manufacturer and in accordance with regulations prescribed by the police department. Persons using the sound level meter shall be trained in sound level measurement and the operation of sound level measuring equipment.
- (3) Except as otherwise specified, sound level measurements shall be made from within the boundary line of any improved and occupied property; where this is impracticable, the measurement shall be taken at the exterior wall of the principal structure on such property. In the case of an elevated or directional sound, compliance with the prescribed limits shall be required at any elevation on the property.
- (4) Except as specified in subsection (7) of this section, the sound measurement shall be averaged over a period of at least one minute for purposes of determining the sound level. Sound levels may not exceed the prescribed level by more than three decibels at any time during the measurement period.
- (5) During measurement, the microphone shall not be positioned so as to create any unnatural enhancement of the measured sound. A windscreen shall be used when appropriate.
- (6) Traffic noise and noise from other sources not connected with the sound being measured shall not be considered in taking measurements.
- (7) In the case of noise that is impulsive or is not continuous, the measurement shall be taken over a period of time of at least one minute. Any such sound or noise that exceeds the prescribed level more than two times in a minute shall be deemed to exceed the prescribed sound levels.
- (8) In the case of outdoor entertainment, including live or recorded speech, music, or other sound, whether or not a permit is required for the activity, sound level measurements shall be made as prescribed in this section. In no case, however, shall the decibel level of such activity exceed the levels allowed pursuant to this article when measured at a point 100 feet away from the source of the sound and beyond the boundary line of the premises from which the noise emanates.

(Code 1986, § 10-6.1; Ord. No. 02-493, 1-8-2003)

Sec. 18-1365. - Noises prohibited; nuisances.

- (a) *General prohibitions.* It shall be unlawful to create, cause or allow the continuance of any loud, disturbing noise, particularly during nighttime, which prevents or unreasonably interferes with neighboring residents' reasonable use of their properties. Such noise may include, but is not limited to, the following:
- (1) *Yelling, shouting, whistling or singing.* Yelling, shouting, whistling or singing on the public streets or private property at nighttime.
 - (2) *Loading operations.* Noise resulting from loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, or other similar objects during nighttime.
 - (3) *Repair of motor vehicles.* Noise resulting from the repair, rebuilding or testing of any motor vehicle during nighttime.
 - (4) *Radio, phonograph, television, or musical instrument.* Noise resulting from the playing of any radio, phonograph, musical instrument, television, or any such device, particularly during nighttime.
 - (5) *Nuisance noise.* Nuisance noise which does not exceed the noise threshold but creates an irritating impact sufficient to disturb an individual's sleep pattern or the peace and quiet of a residential neighborhood.
- (b) *Specific prohibitions.* The following acts are prohibited and shall be considered nuisance acts:
- (1) *Horns and signaling devices.* The intentional sounding of any horn or signaling device on any street or public place continuously or intermittently, except as a danger or emergency warning.
 - (2) *Motor vehicles.* Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises therefrom.
 - (3) *Exterior loud speakers.* Operating or permitting the operation of any mechanical device or loudspeaker, without a permit to do so, in a fixed or movable position exterior to any building, or mounted in/on any motor vehicle or watercraft in such a manner that the sound therefrom is in excess of the maximum decibel level as described in section 18-133.
 - (4) *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment, or tools of a similar nature, outdoors during nighttime.
 - (5) *Explosives.* The use or firing of explosives, firearms, fireworks or similar devices which create impulsive sound.
 - (6) *Security alarms.* The sounding of a security alarm, for more than 20 minutes after being notified by law enforcement personnel.
 - (7) *Animals and birds.* The keeping of any animal or bird that frequently or for long periods of time makes noises that tend to disturb others.
 - (8) *Construction.* Construction, construction preparation, building and operation of construction or building equipment.

- (9) *Motor vehicles.* Operation of any motor vehicle so as to cause the tires to squeal or screech unnecessarily.
- (10) *Model cars.* Operation of model cars, boats or airplanes, go carts, mini bikes or all-terrain vehicles or other unlicensed toy or recreational vehicles or devices powered by an internal combustion engine.

(Code 1986, § 10-7; Ord. No. 00-454, 6-13-2000; Ord. No. 02-493, 1-8-2003)

~~Sec. 18-136. Commercial entertainment.~~

- ~~(a) Without limiting the applicability of any other provision of this article, no commercial establishment shall play, operate, or cause to be played or operated, any amplified or non-amplified musical instrument or sound reproduction device in a manner that causes a noise disturbance on any neighboring premises or public area. For the purpose of this section, a noise disturbance shall be presumed to exist where the sound or noise caused by any activity described herein is plainly audible within any occupied structure not the source of the sound or noise or within any public area more than 66 feet from the property line of the commercial establishment during the days and times set forth below:

 - ~~(1) For structures located in residential zoning districts, this presumption shall be effective at all hours.~~
 - ~~(2) For structures and public areas located in non-residential zoning districts, this presumption shall be effective from 11:00 p.m. until 7:00 a.m. (except that the beginning time for the presumption shall be 1:00 a.m. on Saturday and Sunday).~~~~
- ~~(b) This section shall not apply to activities for which permits have been issued pursuant to section 18-139.~~

(Code 1986, § 10-7.1; Ord. No. 02-493, 1-8-2003)

~~Sec. 18-137. Owner and occupant responsibility.~~

- ~~(a) Penalties for violations of this article may be assessed against persons responsible for the premises or device producing or causing the noise disturbance.~~
- ~~(b) An owner of any premises subject to this article who is not also an occupant of the premises shall be responsible for any actions by tenants, guests, or other licensees that constitute second or subsequent violations of this article; provided, that no absentee owner shall be liable unless notified of first or previous violations of the article, and further provided that such first or previous violations pursuant to this subsection shall be effected by registered or certified mail. No absentee owner may be subjected to criminal liability under this section, but shall be subject to civil penalties and equitable relief as provided in section 18-140. This section shall in no way relieve any other person from responsibility for violations of this article.~~
- ~~(c) The person responsible for any premises shall be responsible and liable for any violations of this article by tenants, guests, or licensees on the premises if the person responsible is actively or constructively present at the time of the violation.~~

(Code 1986, § 10-7.2; Ord. No. 02-493, 1-8-2003)

Sec. 18-1378. - Exceptions.

The following are exempt from the provisions of this article:

- (1) Sound emanating from regularly scheduled outdoor events with a permit.
- (2) Construction operations from 7:00 a.m. to 6:00 p.m. on weekdays and between the hours of 9:00 a.m. and 5:00 p.m. on Saturday; such work is prohibited on Sunday for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; provided all equipment is operated in accord with the manufacturer's specifications and with all standard mufflers and noise reducing equipment in use and in proper operating condition. Any exceptions to this provision must comply with the process and procedure by which permits to exceed limits may be obtained.
- (3) Noises resulting from safety signals, warning devices and emergency pressure relief valves.
- (4) Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
- (5) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the town in accordance with the above. Regulations of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
- (6) Unamplified and amplified sound at street fairs conducted by or for the town.
- (7) All noises coming from the normal operations of properly equipped watercraft.
- (8) All noises coming from the normal operation of motor vehicles properly equipped with the manufacturer's standard mufflers and noise-reducing equipment.
- (9) Noise from lawful fireworks and noisemakers on federal holidays.
- (10) Noises resulting from lawn mowers, agricultural equipment, and landscape maintenance equipment used between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, and between 8:00 a.m. and 9:00 p.m. on weekends, when operated with all manufacturers standard mufflers and noise-reducing equipment in use and in operating condition.
- (11) Noises resulting from sound amplification equipment used in conjunction with telecommunications systems on business properties to notify employees of that business of incoming phone calls, providing that this system is used only between the hours of 7:00 a.m. and 10:00 p.m., and that any speakers attached to the system are oriented toward the interior of the property.
- (12) Noises resulting from emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from an imminent danger.
- (13) Noises resulting from the provision of government services.
- (14) Noise resulting from the provision of sanitation services.

(Code 1986, § 10-8; Ord. No. 00-454, 6-13-2000)

Sec. 18-138~~9~~. - Permit to exceed limits.

- (a) *Who may apply.* A person or group of persons may produce or cause to be produced sound in excess of those limits established in section 18-133 only during the hours specified in section 18-133, and only if a permit to exceed the limit for the time and place of the activity has been previously issued by the Town Manager.
- (b) *Application for permit.* Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all information required.
- (c) *Timeliness of application.* The business manager or authorized agent or any person or group of persons desiring a permit for a live musical group or individual to perform out-of-doors using sound-amplifying equipment must make application 48 hours prior to the activity for which the permit is requested.
- (d) *Action by Town Manager.* The Town Manager or his designee will act upon all requests for permits.
- (e) *Consideration by Town Manager.* In considering and acting on all permits pursuant to this article, the Town Manager or his designee shall consider, but shall not be limited to, the following, in issuing or denying such permit:
 - (1) The timeliness of the application;
 - (2) The time of the event;
 - (3) Other activities in the vicinity of the location proposed;
 - (4) The frequency of the application;
 - (5) The effect of the activity on the residential areas of the town;
 - (6) Impact on surrounding areas;
 - (7) Previous experience with the applicant; and
 - (8) Previous violations, if any, of the applicant.
- (f) *Application requirements.*
 - (1) A permit application will require the payment of an administration fee pursuant to the town's annually adopted rate and fee schedule.
 - (2) The Town Manager or his designee may require that no sound speakers shall be set up more than ten feet above the ground.
 - (3) The Town Manager or his designee may require that the permit holders change the arrangement of loud speakers or the sound instruments so as to minimize the disturbance to surrounding areas resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property line.
 - (4) The Town Manager may require that the permit holder notify at least one adult at every residential address within 250 feet of the site of the proposed sound source that a permit has been issued. Such notification must be in writing and be given 24 hours prior to the starting time of the permitted activity.
- (g) *Cooperation with police.* Permit holders shall cooperate with the police department in enforcing this article, by having the permit holder available at the site of the event during the entire time for

which a permit has been issued and capable of assisting the police in enforcing this article. Failure of such permit holder to be present or to assist the police in complying with this article will be cause for immediate revocation of said permit and cessation of permitted activity.

- (h) *Denial of permit.* The Town Manager or his designee may deny a request to exceed the limits or to operate sound-amplifying equipment to any individual, group, organization, or musical group who has held a permit to exceed normal noise levels within the previous six months, with or without a permit. All permits issued pursuant to this article shall contain a statement of the penalties for violations set forth herein.

(Code 1986, § 10-9; Ord. No. 00-454, 6-13-2000; Ord. No. 02-493, 1-8-2003)

Sec. 18-13940. - Violations.

(a) Penalties for violations of this article may be assessed against the owner of the premises, the occupant of the premises, persons responsible for the premises or the device producing or causing the noise.

(b) An owner of any premises subject to this article who is not also an occupant of the premises shall be responsible for any actions by tenants, guests, or other licensees that constitute second or subsequent violations of this article; provided, that

(1) No absentee owner shall be liable unless notified of first or previous violations of the article,

(2) Such first violation or previous violation shall have occurred within the previous twelve-month period.

(3) Notice of any first or previous violations pursuant to this paragraph shall be effected by registered or certified mail.

(4) No absentee owner may be subjected to criminal liability under this section, but shall be subject to all civil penalties and equitable relief.

(c) This section shall in no way relieve any other person from responsibility for violations of this article.

~~(d) *First offense.* Any person who violates any portion of this article shall receive an oral order to cease or abate the noise immediately, or within a reasonable time period.~~

~~(e) *Nighttime offenses/subsequent offenses.* If a second violation occurs within 60 days of the first offense or if an offense occurs during nighttime, an oral order to cease or abate need not be issued prior to issuing a citation for violation of any portion of these above-mentioned sections.~~

~~(d) *Civil penalty.* If the order to cease or abate the noise is not complied with, or if a second violation occurs within 60 days of the first offense or if an offense occurs during nighttime, a person or persons responsible for the violation may~~

Violators shall be subject to a civil penalty pursuant to the town's annually adopted rate and fee schedule. Violators may be issued a written citation which must be paid within ~~five~~ fourteen (14) days of the issue date and time. The Town Attorney, or his designee, is authorized to file a civil action on behalf of the town to collect any unpaid citations, and the Police Chief, or his designee, is authorized to verify and sign complaints on behalf of the town in such civil actions. A police officer or other employee duly authorized to enforce this article may issue a citation for violation of these above-mentioned sections.

- (e) *Remedies.* This article may also be enforced through equitable remedies issued by a court of competent jurisdiction.
- (f) *Criminal penalty.* In addition to, or in lieu of, such civil penalties or other remedies, violation of this article shall constitute a misdemeanor pursuant to G.S. 14-4 and 160-175, as amended, punishable for each violation by a fine pursuant to the town's annually adopted rate and fee schedule. A police officer or other officer enforcing subject matter jurisdiction or other duly authorized noise control officer may initiate the criminal process as provided by law.

(Code 1986, § 10-10; Ord. No. 00-454, 6-13-2000; Ord. No. 00-460, 8-8-2000)

State Law reference— Noise regulation, G.S. 160A-184; sale, etc., of pyrotechnics, G.S. 14-410 et seq.; abatement of nuisances, G.S. 160A-193.

Sec 18-140 Appeals

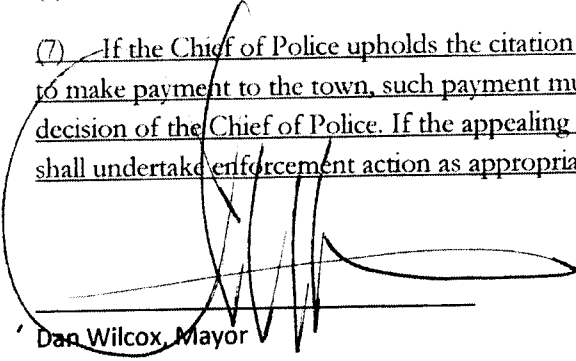
Any person issued a civil citation under the provisions of this section may appeal the issuance of such citation to the Carolina Beach Chief of Police ("Chief of Police"). An appeal shall be perfected in accordance with the following:

- (1) An appeal shall be taken by giving written notice of appeal to the Chief of Police within 14 calendar days of the date of issuance of the civil citation. In determining the 14 calendar days within which such appeal may be taken, the date of the civil citation shall not be counted.
- (2) Such written notice must be received by the Chief of Police no later than 5:00 p.m. on the fourteenth day of the appeal period. If the fourteenth day falls on a Saturday, Sunday or holiday recognized by the town, the time for filing such appeal shall be extended to 5:00 p.m. on the next day which is not a Saturday, Sunday or holiday.
- (3) A copy of the citation issued to the appealing party shall be attached to such written notice of appeal.
- (4) The written notice of appeal shall set forth the grounds for the appeal, include other information that the appealing party believes supports its position and must include the name, email address, mailing address and telephone number of the appealing party.

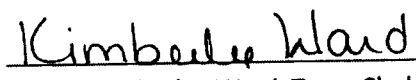
(5) Within 15 calendar days of receipt of the written notice of appeal, the Chief of Police shall issue a written decision. The Chief of Police may uphold the citation, dismiss the citation or reduce the citation to some lesser offense. Provided, that the Chief of Police may not impose any penalty greater than that set forth in the citation from which appeal was taken. The written decision of the Chief of Police will be emailed or mailed by first class mail to the appealing party within five days of issuance to the email address or mailing address of the appealing party shown on the written notice of appeal.

(6) The decision of the Chief of Police shall be final.

(7) If the Chief of Police upholds the citation or takes other action that requires the appealing party to make payment to the town, such payment must be made within 14 days of the date of the written decision of the Chief of Police. If the appealing party fails to make payment within that time, the town shall undertake enforcement action as appropriate.



Dan Wilcox, Mayor



Attest: Kimberlee Ward, Town Clerk

4-11-2017
Date Approved



ORDINANCE NO. 17 -1053

Amend the Rates and Fees Schedule to update violation fee and permit costs for Noise Related Issues

Budget Ordinance – Rates and Fee Schedule

EVENTS

Permit to exceed noise limits (Article 18) \$10.00

Town Ordinance Violations/Fines

48-139 \$5.00 Exceeding noise permit

Article 18 NOISE

(a) First Violation: Any person violating any provision of the sections in this Article shall be subject to a civil penalty in the amount of two hundred and fifty dollars (\$250.00)

(b) Subsequent violations: Each calendar day on which a continuing violation occurs shall constitute a subsequent violation. Any subsequent violation within a 12 month period of a first violation shall subject the violator to a civil penalty of five hundred dollars (\$500.00) for each offense. For purposes of determining subsequent violations within a 12 month period the date of the first violation shall be the anniversary date from which a new 12-month period shall begin.

(c) Late Penalty: Failure to pay a violation within the prescribed time will result in penalties of \$50 for every fourteen (14) calendar days past due. At any time the civil charges may be recovered by the town with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.

(d) A violation of any of the provisions of this article may constitute a Class 3 misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days, unless otherwise provided herein.

Dan Wilcox, Mayor

Kimberlee Ward
Attest: Kimberlee Ward, Town Clerk

4-11-2017
Date Approved



Dan Wilcox
Mayor

Tom Bridges
Council Member

Steve Shuttleworth
Council Member



LeAnn Pierce
Mayor Pro Tem

Gary Doetsch
Council Member

Michael Cramer
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2996
FAX 910 458 2997

Resolution No. 17-2154

**RESOLUTION IN SUPPORT OF APPLYING FOR A GRANT FROM THE
N.C. DIVISION OF WATER INFRASTRUCTURE – STATE RESERVE
PROJECT PROGRAM – WASTEWATER SYSTEM**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of constructing wastewater collection systems, and

WHEREAS, The Town of Carolina Beach has need for and intends to construct a wastewater collection system, described as replacement of approximately 2,278 linear feet of gravity sanitary sewer and associated infrastructure along Goldsboro, Wilson, Lumberton, and Florence Avenues from Lake Park Blvd. to 3rd Street and 3rd Street from Harper Avenue to Goldsboro Avenue, and

WHEREAS, The Town of Carolina Beach intends to request state grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH:

That the Town of Carolina Beach, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State grant award.

That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Carolina Beach to make scheduled repayment of the loan, to withhold from the Town of Carolina Beach any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

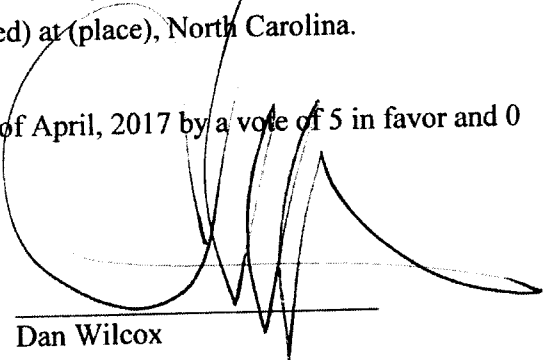
That Michael Cramer, Town Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.

That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the (date adopted) at (place), North Carolina.

Adopted by the Town Council this 11th day of April, 2017 by a vote of 5 in favor and 0 against.



Dan Wilcox
Mayor

Attest:

Kimberlee Ward

Kimberlee Ward
Town Clerk



CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting Town Clerk of the Town of Carolina Beach does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Carolina Beach Town Council duly held on the 11th day of April, 2017 and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of April, 2017.

Kimberlee Ward
Kimberlee Ward, Town Clerk



Dan Wilcox
Mayor

Tom Bridges
Council Member

Steve Shuttleworth
Council Member



LeAnn Pierce
Mayor Pro Tem

Gary Doetsch
Council Member

Michael Cramer
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2996
FAX 910 458 2997

Resolution No. 17-2155

**RESOLUTION IN SUPPORT OF APPLYING FOR A GRANT FROM THE
N.C. DIVISION OF WATER INFRASTRUCTURE – STATE RESERVE
PROJECT PROGRAM – DRINKING WATER SYSTEM**

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of constructing drinking water systems, and

WHEREAS, The Town of Carolina Beach has need for and intends to construct a drinking water system, described as replacement of approximately 5,220 linear feet of water lines and associated infrastructure along Harper, Wilson, Lumberton, and Florence Avenues from Lake Park Blvd. to 4th Street and 3rd Street from Harper Avenue to Goldsboro Avenue, and

WHEREAS, The Town of Carolina Beach intends to request state grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH:

That the Town of Carolina Beach, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State grant award.

That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the applicant agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Carolina Beach to make scheduled repayment of the loan, to withhold from the Town of Carolina Beach any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the Applicant will provide for efficient operation and maintenance of the project on completion of construction thereof.

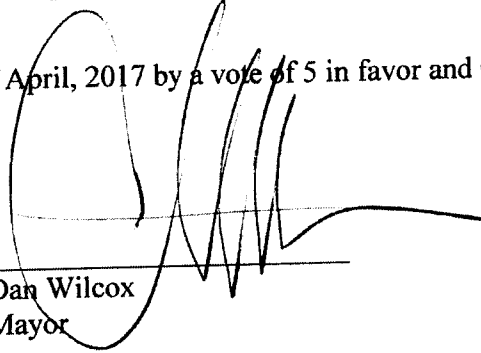
That Michael Cramer, Town Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for a grant to aid in the construction of the project described above.

That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

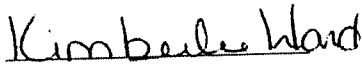
That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the (date adopted) at (place), North Carolina.

Adopted by the Town Council this 11th day of April, 2017 by a vote of 5 in favor and 0 against.


Dan Wilcox
Mayor

Attest:



Kimberlee Ward
Town Clerk



CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting Town Clerk of the Town of Carolina Beach does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the (name of governing body of applicant) duly held on the 11th day of April, 2017; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of April, 2017.

Kimberlee Ward

Kimberlee Ward



Town Clerk

Dan Wilcox
Mayor

Steve Shuttleworth
Council Member

Gary Doetsch
Council Member



LeAnn Pierce
Mayor Pro Tem

Tom Bridges
Council Member

Michael Cramer
Town Manager

Town of Carolina Beach
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
TEL: (910) 458-2999
FAX: (910) 458-2997

RESOLUTION 17-2156
RESOLUTION SUPPORTING DEDICATED
STATE REVENUE SOURCE FOR BEACH NOURISHMENT

Whereas, North Carolina beaches and inlets fuel the vital tourism industry along the NC coast, and provide total economic benefit of more than \$6 billion annually, support more than 65,000 jobs, and generate approximately \$188 million of State tax revenue annually, and

Whereas, the Town of Carolina Beach recognizes the vital importance of the beach to the Town's economic success and quality of life, and is committed to a long-term coastal storm damage reduction program to protect its most important asset, and

Whereas, the December 2016 update of the State's Beach and Inlet Management Plan (BIMP) recommends the establishment of a dedicated State coastal storm damage reduction fund with a dedicated State funding source to assist local governments with the significant expense of coastal storm damage reduction programs, and

Whereas, the BIMP identifies an annual need of approximately \$25 million to enable the State to provide 50% matching funds to local governments to complete projected future coastal storm damage reduction projects,

Now, therefore, be it resolved that the Town of Carolina Beach Town Council hereby supports the establishment of a dedicated State coastal storm damage reduction fund with a dedicated State funding source sufficient to provide 50% matching funds to local governments.

Adopted this the 11th day of April, 2017.

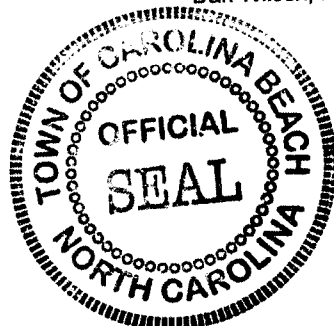
A handwritten signature in black ink, appearing to read "Dan Wilcox".

Dan Wilcox, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Kimberlee Ward".

Kimberlee Ward, Town Clerk



Resolution 17-2157

Town of Carolina Beach
Town Council



RESOLUTION IN SUPPORT FOR APPROVING A PERMIT FOR THE HARRIS TEETER DEVELOPMENT WITHOUT A SOUTHBOUND LEFT-TURN LANE AT THE INTERSECTION OF N. LAKE PARK BOULEVARD AND THE FEDERAL POINT SHOPPING CENTER DRIVEWAY.

WHEREAS, The proposed retail development consists of a 59,023 square feet of shopping center space and 14 fueling position gas station, and

WHEREAS, The traffic assessment conducted by NCDOT demonstrated intersection delays that warranted the installation of traffic mitigation measures, identified as a dedicated southbound left-turn lane on N. Lake Park Boulevard into the Federal Point Shopping Center driveway, and

WHEREAS, The existing NCDOT right-of-way on N. Lake Park Boulevard is 60 feet in width. Designs using asymmetrical widening to provide the southbound left-turn lane have shown that the addition of the left-turn lane exceeds the available right-of-way width, and as such, require right-of-way acquisition from multiple private property owners that the development cannot acquire without negatively impacting those adjacent property's site layouts, and


WHEREAS, Without the left-turn lane at the existing signalized intersection and with the location of the main site access as currently proposed, the projected development traffic is not able to be completely mitigated according to NC Department of Transportation. Consequently, traffic delays could occur as a result of this commercial development.

WHEREAS, a commercial development previously existed on the site without any of the mitigation recommendations; and

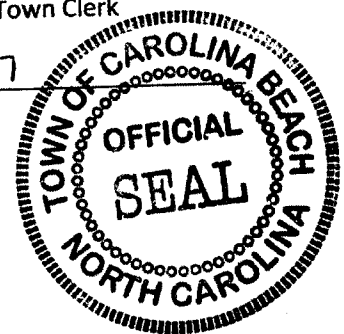
WHEREAS, the property has remained vacant and undeveloped for 12 years.

NOW, THEREFORE BE IT RESOLVED, THAT the Town Council of the Town of Carolina Beach hereby supports NC Department of Transportation approving a driveway permit for this development without a southbound left-turn lane at the intersection of US 421 (N. Lake Park Boulevard) and the Federal Point Shopping Center driveway as reviewed for public hearing on April 11, 2017.


Dan Wilcox, Mayor


Attest: Kimberlee Ward, Town Clerk

April 11, 2017
Date Approved



Resolution 17-2158

Town of Carolina Beach
Town Council



A RESOLUTION REQUESTING OPPOSITION TO HOUSE BILL 271 AND SENATE BILL 539 OPPOSING THE BAN ON THE USE OF PLASTIC BAGS BY RETAIL STORES ON THE OUTER BANKS

WHEREAS, the North Carolina General Assembly enacted a ban on the use of plastic bags by Outer Banks stores in 2010, the Nation's first mandated state ban; and

WHEREAS, this ban was initially instituted for larger retailers from Corolla to Ocracoke in 2009; and

WHEREAS, this legislation was proposed to both protect the environment and help preserve the thriving tourism industry; and

WHEREAS, banning plastic bags promoted a new shopping culture on the Outer Banks where the delicate ecosystem is particularly vulnerable to excessive trash; and

WHEREAS, plastic bags are known to harm marine life, especially sea turtles; and

WHEREAS, a bill has been filed in the N.C. House of Representatives that would repeal the ban; and

WHEREAS, banning plastic bags has improved the visual aesthetics in the Outer Banks by reducing litter, added protection to the fragile marine ecosystems, and kept tons of plastic out of landfills;

NOW, THEREFORE, BE IT RESOLVED that the Carolina Beach Town Council opposes the House Bill 271 and Senate Bill 539.

Adopted this 11th day of April, 2017.

A handwritten signature in black ink, appearing to read "Dan Wilcox", written over a horizontal line.

Dan Wilcox, Mayor

A handwritten signature in black ink, appearing to read "Kimberlee Ward", written over a horizontal line.

Attest: Kimberlee Ward, Town Clerk

April 11, 2017

Date Approved



Dan Wilcox
Mayor

Tom Bridges
Council Member

Steve Shuttleworth
Council Member



LeAnn Pierce
Mayor Pro Tem

Gary Doetsch
Council Member

Michael Cramer
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2996
FAX 910 458 2997

ORDER GRANTING A CONDITIONAL USE PERMIT MODIFICATION

Applicant: Susan Bondy
Location: 1140 N Lake Park Blvd.
Tax Parcel Number: 313006.39.8540.000

The Town Council of the Town of Carolina Beach, having held a public hearing on April 11, 2017 to consider approving a Conditional Use Permit for an Animal Care Facility with Outdoor Area and where sworn testimony was heard from the following persons: Assistant Town Manager Ed Parvin, Senior Planner Jeremy Hardison, Applicant Susan Bondy. The following uncontested facts were presented:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

There are no proposed additional driveway cuts and the traffic pattern will remain the same at the shopping center. To accommodate the outdoor area the applicant is proposing to close the current gravel drive around the rear of the building that was originally constructed for a drive thru window for a previous use.

- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;

The use is not required to provide additional parking and will have to adhere to the noise ordinance that addresses animals that frequently makes noises that disturb others.

- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;

The shopping center has current dumpster for the units to utilize.

- (4) Utilities, with reference to locations, availability, and compatibility;

No upgrades are planned to the Water and Sewer services.

(5) Screening and buffering with reference to type, dimensions, and character;

The shopping center was required to provide for a 5' landscape requirement. Outdoor areas for animal care facilities shall provide for 5' buffer for outdoor areas.

(6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

A signage plan will be approved by staff that meets the sign regulations.

(7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

The use is going into an existing shopping center that meets the setbacks and lot coverage requirements.

General conditions.

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;

The plan meets the ordinance and long range plans and policies

(2) That the use meets all required conditions and specifications;

After review by staff the plan has been determined to meet all conditions and specifications

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

The proposed use is in keeping with the character of the area and will therefore not injure the value of adjoining properties.

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies

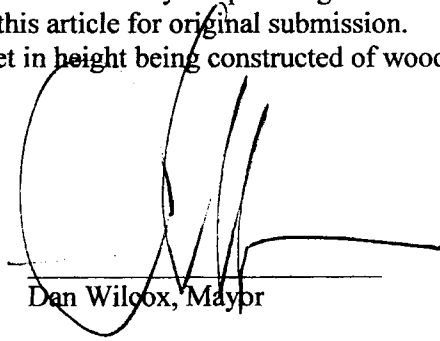
The desired Future Land Use of this area includes a continued use as a highway business corridor. Commercial uses shall primarily include retail, office, restaurant, entertainment, and service.

It is ordered that the application for the issuance of a Conditional Use Permit by **Susan Bondy** be granted, subject to the following conditions:

- 1) The site plan corresponding to this approval dated 11/8/00. The plan was stamped received by the Town of Carolina Beach on 2/27/2017.
- 2) Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire. All plans will be reviewed to ensure building fire and town codes have been met.

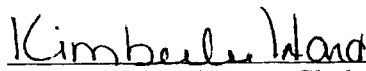
- 3) Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.
- 4) Providing for a 9 foot barrier with the first 6 feet in height being constructed of wood and 80% opacity.

Ordered this 11th day of April, 2017



Dan Wilcox, Mayor

ATTEST:



Kimberlee Ward, Town Clerk

