

CAROLINA BEACH

Planning and Zoning Commission Meeting

Thursday, June 8, 2023 - 6:00 PM

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



MINUTES

CALL TO ORDER

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

PRESENT

Chairman Wayne Rouse

Vice Chairman Jeff Hogan

Commissioner Melanie Boswell

Commissioner Ethan Crouch

Commissioner Todd Piper

Commissioner Bill Carew

Commissioner Lynn Conto

ALSO PRESENT

Planning Director Jeremy Hardison

Senior Planner Gloria Abbotts

APPROVAL OF MINUTES

ACTION: Motion to approve the minutes

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

STAFF REPORT ON RECENT DEVELOPMENTS

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

Permitting

- 83 permits (renovation, repair, grading, additions, fences)
- 55 residential new construction
- 20 certificates of occupancy

Code Enforcement

- 47 complaints received
- 37 resolved

Demos

- 302 North Carolina Avenue
- 520 Cape Fear Boulevard
- 213 Cape Fear Boulevard (pool)

New Businesses

- Breeza (retail) – 15 Carolina Beach Avenue North

Town Council and Other Updates

- Boardwalk bathrooms – approved by Board of Adjustment May 2
- Outdoor gross floor area text amendment – approved by Council May 9
- New Hanover County Advisory Council Contractors’ Meeting – May 11
- The Proximity has applied for building permits
- Social on 2nd has applied for all building permits
- Upcoming: parking text amendment (Neapolitan) and Town tree maintenance text amendment for Tree City USA designation

Chairman Rouse said he heard positive feedback about the Contractors’ Meeting. He encouraged staff to consider offering this again in a few months.

PUBLIC DISCUSSION

ACTION: Motion to open public discussion

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

No one requested to speak.

ACTION: Motion to close public discussion

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

PUBLIC HEARINGS

1. Map amendment to rezone 601 Augusta Ave from Conservation (C) to Residential (R-1) zoning district
Applicant: Parris Stratton

Mr. Hardison said the Commission voted on this item 18 months ago, but it was pulled by the applicant prior to going before Council. He said the property has since transferred hands, so now there is a different applicant.

The owner of 601 Augusta Avenue is requesting a rezoning of the 20,661-square-foot property from Conservation (C) to the Residential (R-1) zoning district. The property was voluntarily annexed in December 2022. This tract of land is the only private property zoned C. All other C property is owned by the State or Federal government. In 2000, there was a Town-wide rezoning that designated all areas outside the Town limit line as C, which is a zoning designation that allows for single-family residential development in an environmentally compatible setting that is appropriately designed and located.

The property is currently vacant. The adjacent zoning district to the north and east is R-1. The property to the north adjacent to Carolina Sands is R-1B.

Currently with C zoning, one unit can be developed on the property. If the property is rezoned to R-1 or R-1B, it would have to meet the minimum lot size of 5,000 square feet and minimum lot width of 50 feet. These lots could be developed single-family only in R-1B and either single-family or two-family dwellings in R-1.

Staff recommends this parcel to be rezoned and believes this would be consistent with the 2020 Land Use Plan.

Commissioner Carew asked if the previous property owner was ever given any notice of a change to the zoning. Mr. Hardison said in 2000 there was a half-page ad in the paper, which satisfied the statutory requirement for rezoning. He said in 2008 when the map was brought back to Council to make an official zoning map, there was another ad in the paper. Mr. Hardison said there was no notice specific to the property owner.

ACTION: Motion to open the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

Attorney Ned Barnes of 814 Carolina Beach Avenue North, speaking on behalf of the applicant, said that area is all single-family homes, and the C designation is basically spot zoning. He said the family of the longtime previous owner was under the assumption this was R-1. Mr. Barnes said no due process was given in classifying the property as C, so the applicant is seeking to correct an error that occurred years ago. He said the proposed rezoning is within the context of the Land Use Plan, offers compatibility with the surrounding area, and would benefit the Town by providing more full-time housing.

Attorney Grady Richardson of 1908 Eastwood Road Suite 224 in Wilmington said he represents the following neighbors immediately surrounding the property: Jac Nethercutt, Sherry Bibb, Sandie and Richard Cecelski, Brent Baranoski, Karen Willems, and Leni Knowles.

Commissioner Boswell asked that Mr. Richardson not be subject to the three-minute time limit for the public because Mr. Barnes did not have a time limit. Mr. Hardison said because Mr. Barnes represents the applicant he is not subject to a time limit, but Mr. Richardson is representing the public and therefore it's the Commission's policy to allow up to three minutes. Chairman Rouse asked to give Mr. Richardson an additional three minutes. Mr. Richardson said he would like leniency and does not agree that there should be a time limit with a public hearing vs. general public comment.

Mr. Richardson said all the single-family homes in the area are consistent with R-1B or C zoning. He said all his clients have lived in their homes for a long time and bought their properties in reliance of the property in question being officially zoned as C. Mr. Richardson said changing the zoning to R-1 would allow the applicant to build up to eight homes on the property as duplexes or townhomes, and he said that is inconsistent with the surrounding area. Mr. Richardson cited concerns about stormwater, flooding, traffic congestion, and parking. He asked the Commission to keep the property as C or rezone it to R-1B.

Sandie Cecelski of 941 Carolina Sands Drive said she has lived in her home for 26 years, and rezoning the adjacent property to R-1 does not align with the Town's Land Use Plan and would dramatically affect her quality of life due to issues such as extra cars and stormwater runoff from increased impervious surface. She said she has over 250 signatures of people who are concerned about the request and is pleading with the Commission to deny the rezoning request. Ms. Cecelski said she is OK with one house being built on the property and thinks it will still be profitable for the owner.

Richard Cecelski of 941 and 943 Carolina Sands Drive said rezoning the adjacent property would devalue his own property. He said he bought there because of the C zoning of that parcel, which is consistent with a family neighborhood and more appropriate for permanent residents. Mr. Cecelski said the area does not need more cars from short-term rentals and that C zoning is important for stormwater management. He said rezoning would set a bad precedent for future projects and send a message that buying property in the Town is a risky investment. Mr. Cecelski asked the Commission to try to sustain the quality of life here.

Leni Knowles of 602 Augusta Avenue, which is across from the property, said the developer removed and destroyed almost every tree on the lot. She said her mother and others bought their homes over 20 years ago based on the wooded C area and relied upon Town zoning, which is the same zoning the applicant was aware of when buying the property. Ms. Knowles questioned why one man's dollars are more important than the entire community and said developing the property would diminish the property value of all the neighboring homes and likely cause flooding due to an increase in impervious surface. She said community voices should matter and urged the Commission to keep the land as C and stop overdevelopment.

Glen Mitchell of 605 South Third Street said he was concerned about a meeting of members of the Carolina Sands community on April 30, the majority of whom were opposed to the rezoning request. He said Commissioner Ethan Crouch, who is a Carolina Sands homeowner, was in attendance and

shared advice with residents about what they should and should not say at the Planning and Zoning meeting regarding the property. Mr. Mitchell said Commissioner Crouch has rights regarding his personal property but also has a responsibility to represent the Town in a fair and reasonable way. He said it is a conflict of interest that Commissioner Crouch already made up his mind about the issue and shared personal advice with the community, so Mr. Mitchell asked that Commissioner Crouch recuse himself from this matter and consider stepping down from his position.

William Baranoski of 945 Carolina Sands Drive, which directly adjoins the property, said he thought neighbors were protected from this lot being developed because of the C zoning designation. He said if the current request is granted, there could be eight units on the property, which is not in line with the surrounding properties because the majority of them are not zoned R-1. Mr. Baranoski said he and his neighbors don't deserve to have the highest possible density housing shoehorned into a long-established neighborhood. He said they have made life decisions based on the current C zoning designation, so he is requesting that rezoning to R-1 be denied.

Monica Wilson of 919 Salt Water Lane in Carolina Sands said the Town supports rezoning to correct the error that appeared on the digitized zoning map in 2001. She said she has found no documentation that supports the previous change to C zoning, so zoning for the property should be returned to R-1 to remove inconsistencies. Ms. Wilson said the owners of the property should have the same rights as their neighbors.

Danielle Kurtz of 918 Riptide Lane said if there was an error, it should've been addressed with the previous longtime owner. She said the current owner was aware of the current C zoning when purchasing the property. Ms. Kurtz said upzoning this property would set a precedent for future upzoning, so she asked the Commission to keep the zoning as C.

JoDan Garza of 513 Atlanta Avenue said the zoning error for this property never came up during development of the current Land Use Plan. He said the zoning designation of the property should protect harmony in the community.

Brad Jones of 207 Annie Drive said he worked with the previous longtime owner to liquidate the property and was told the C zoning designation was a clerical error. He said his clients were never notified of this change, and the previous owner would never have gone along with the property being downzoned. Mr. Jones said he does not know of any local instances in which building something brand new devalues a property next to it.

No one else requested to speak.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

Commissioner Conto asked if Carolina Sands was always zoned R-1B. Mr. Hardison said when it was originally developed it was zoned for single-family and two-family homes but was changed after petitioning by residents in the early 1990s. Commissioner Conto asked if there is stormwater mitigation in Carolina Sands and the surrounding area. Mr. Hardison said yes, stormwater feeds into the lake behind those areas. Commissioner Conto said she is a big believer in property rights and that Mr. Barnes' comments that his clients should have the same rights and privileges as their neighbors resonated with her.

Commissioner Crouch said the current owner purchased the property knowing the C zoning designation, which gives him the right to build a single-family home in conformity with the surrounding neighbors. He said 55% of the directly adjacent parcels are not zoned R-1, and he contended there are 20 clauses in the Land Use Plan that show this request is not in conformity with the plan. Commissioner Crouch said while it's up for debate how this land ended up as C, it has been this way for more than 15 years and people have made life decisions based on this. He also said the parcel has recently been sold as C twice and the last application for rezoning was recommended for denial, so the current owner is aware of the history.

Commissioner Boswell said she has done research that has caused her to question whether an error was made earlier in taking the property out of C and into R-1 instead of vice versa. She said a map from 1980 shows it was zoned as C then, so she suggested the error may have been when it was zoned R-1 and putting it as C was correcting that error. Commissioner Boswell said no one is trying to take away the owner's right to build one home on the property, but it was not purchased with the right to build multiple-family homes. She said the previous longtime owner bought the property from Herbert Bluethenthal, a conservationist with a wildflower preserve at the University of North Carolina Wilmington named after him, so she believes there was an intention to preserve the land there. Commissioner Boswell said she hasn't heard anything tonight that will change her "no" vote from last time, so she is recommending that it be left as C. She said the owner can still profit from building one home on the land, but she won't vote to take what one citizen wants over the quality of life of the adjacent property owners.

Commissioner Carew said when taking into account what has happened over the years with other parcels in this area, the C designation appears to be spot zoning that was in error. Mr. Hardison said the parcels around this property were annexed by petition in 1980, but 601 Augusta Avenue never requested annexation.

Commissioner Piper asked how current owner Parris Stratton relates to previous owner Center City Development LLC because the property changed hands in 2022 for \$0. Mr. Stratton said he and Center City Development have worked together on several projects, and some are in the company's name and some are his name. Mr. Stratton said at the meeting for the previous rezoning request, there was a lot of misinformation and things got mixed up with the simultaneous annexation request. He said the intent was to bring back the map error to get it corrected. Commissioner Piper asked Mr. Stratton if he

understood the land was zoned C when he purchased it. Mr. Stratton said he understood it was zoned incorrectly. Commissioner Piper said he wishes the heirs of the previous longtime owner would've sought to correct the C designation prior to selling it. He said the two owners since then knew going in what the rules were for C zoning.

Vice Chairman Hogan said he owns multiple properties and would never know if the zoning was changed without any notification. He said as a property owner advocate, he thinks the Town is saying there was an error and it needs to be fixed.

Chairman Rouse said there have been various zoning map mistakes in the past that had to be corrected. He asked if there are any other C parcels within the Town that are privately owned. Mr. Hardison said 601 Augusta Avenue is the only one. Chairman Rouse said the facts are that the property was zoned R-1 in 2000, and in 2008 it got changed to C at no one's request, so he is going to vote to approve the applicant's rezoning request.

Commissioner Crouch said the medium-density residential charter area in the Land Use Plan for this area allows for possible consideration of some duplexes, but it is not supposed to be the norm. He said the history in front of everyone today cannot justify that four duplexes on this property will be in conformity with the existing housing in the area.

Chairman Rouse said it would be nice if there was a way for the owner and surrounding residents to get together to work things out.

Vice Chairman Hogan asked why the applicant is seeking R-1 and not R-1B. Mr. Stratton said everything else on Augusta Avenue is R-1 and the future Land Use Plan shows his property as R-1.

Chairman Rouse said other Commissioners are looking at surrounding housing, but he is looking at surrounding zoning. Commissioner Crouch said that's the point of character areas.

Vice Chairman Hogan asked if stipulations can be put on the approval. Mr. Hardison said this cannot be done for a rezoning.

Commissioner Piper asked if the Commission can request that the property be rezoned to R-1B instead of R-1. Mr. Hardison said the Commission can make that recommendation to Council. Mr. Barnes said the applicant can live with R-1B and only asked for R-1 to be consistent with neighboring zoning.

Vice Chairman Hogan asked what can be built there as R-1B. Mr. Hardison said there could be four lots.

Commissioner Crouch said the application being for R-1 but the applicant willing to accept R-1B is procedurally foreign to him. Commissioner Boswell asked if the Commission needs to stick to either approving or denying R-1. Mr. Hardison said the Commission can make the recommendation for R-1B instead of R-1.

ACTION: Motion that whereas in accordance with the provisions of the North Carolina General Statutes, the Commission does hereby find and determine that the adoption of the rezoning of 601 Augusta Avenue from Conservation to R-1B is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans

Motion made by Vice Chairman Hogan

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

Voting Nay: Commissioner Boswell, Commissioner Crouch

Motion passed 5-2

2. Text Amendment to amend Chapter 40, Sec. 40-72 Table of permissible uses, Sec. 40-261 Development standards for particular uses, and Sec. 40-548 Definitions to amend standards for Event Venues/Bars

Applicant: Town of Carolina Beach

Council directed staff to re-examine the ordinance requirements for event venues that were approved in February, specifically the Alcoholic Beverage Control (ABC) standards that were set forth in the development standards. Originally, the language required event venues to comply with the standards of the ABC Limited Special Occasion Permit. This caused a discrepancy with the applicant's business plan because the Limited Special Occasion Permit does not allow owners of the establishment to apply for the permit to perform on-premise sales. The Limited Special Occasion Permit is valid only for outside parties two weeks prior to the event.

The ABC Commission defines the Limited Special Occasion Permit as follows: a Limited Special Occasion Permit authorizes the permittee to bring fortified wine and spirituous liquor onto the premises of a business, with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, wedding, party, or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a Limited Special Occasion Permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held.

In order for the owners of the event venue to sell alcohol on the premises, they must be permitted as a mixed-beverage bar by the ABC Commission.

PROPOSAL

The text amendment consists of reorganizing the use under eating and drinking establishments, renaming the use as Event Venue/Bar, and creating standards that all points of sale shall be indoors or in an outdoor area located a minimum of 20 feet from any property line. Outdoor areas that are proposed must be shown on the site plan for approval via Conditional Zoning (CZ). Any changes to the outdoor areas shall be considered a major modification of the CZ approval. Additionally, the 200-foot separation requirement may be waived by Council for Event Venue/Bar uses adjacent to T-1 and MX zoning districts. Moving the use underneath the category of eating and drinking establishments creates

clarity that event venues must comply with all ABC and/or Alcohol Law Enforcement (ALE) requirements as well as other provisions in Town ordinances such as noise ordinance, fire code, etc.

Ms. Abbotts presented the details. She said the text amendment is in general conformity with the 2020 Land Use Plan by promoting a healthy year-round economy, providing a family-friendly community, and promoting redevelopment. Staff recommends approval of the text amendment as proposed.

Chairman Rouse asked for clarification on the intent of the text amendment. Ms. Abbotts said it is seeking to change the ABC permit, not the use. She said an event will have to take place for the venue to sell alcohol.

Several Commissioners asked about the criteria for something to be considered an event, citing concerns that the text amendment would allow an event venue to essentially operate as a bar. Ms. Abbotts said the event venue definition adopted earlier this year will not be changing, but the word “bar” must be added for ABC permitting reasons. She said this is similar to what event venues in surrounding areas have done.

ACTION: Motion to open the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

David Hamlet of 1414 Snapper Lane Unit 2, who is part of Kindred Carolina Beach LLC, said all the event venues in Wilmington have a bar ABC permit. He said this gives the venue the right to serve mixed beverages at an event but does not make it a bar. Mr. Hamlet said he and his partners don’t want to be part of the food business; they just want to provide an event venue that allows alcohol sales that the owners can control. He said as the rules stand now, the owners of the venue would have no control over alcohol sales during events.

Michael Urti of 513 Monroe Avenue, who is also part of Kindred Carolina Beach LLC, said there is no other classification for them to apply for an ABC permit other than as a bar permit because they don’t serve food and don’t want to operate as a restaurant. He said this would affect the permit only and not the land use of the property because they have no intention of operating as a bar.

No one else requested to speak.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

Commissioner Boswell asked if the ABC permit follows the holder or the address. Ms. Abbotts said a new owner would have to reapply for an ABC permit.

Vice Chairman Hogan asked what would prevent the event venue from changing to a bar. Ms. Abbotts said the 200-foot buffer from MX zoning would prevent this. Mr. Hardison said if the property was approved as an event venue, the owners would have to come back to be approved as anything else.

Commissioner Carew said the real question is what happens when the property is sold. He said he is concerned about unintended consequences that may arise with the next owner potentially bending the rules in a way that would create a use that is objectionable to the neighborhood. Ms. Abbotts said a new owner would have to get another ABC permit and come through the Town. She said if an event venue was operating as a bar, there is an enforcement process and the Town would investigate if there were complaints.

Vice Chairman Hogan said he thinks the event venue definition is generic. Commissioner Crouch said he thinks the question isn't so much about the definition of an Event Venue/Bar but more about what actually constitutes an event. Mr. Hardison said there is not a definition for an event itself, just an event venue.

Commissioner Carew said it seems like the Town is creating a definition that will work for this particular instance but will be left with the definition in the future should there be another event venue.

Commissioner Crouch said changing the table of permissible uses scares him a little because of the potential for unintended consequences, but he said the ABC permitting process gives him some peace of mind because that regulatory tool will still be in place no matter what.

Commissioner Piper said he would like to see a definition for an event. Commissioner Crouch said maybe that could be done through the Unified Development Ordinance (UDO).

Vice Chairman Hogan said he doesn't want to open the door to others bending the rules for what is being approved tonight. Mr. Hardison said conditions can be put on the Commission's recommendation.

Commissioner Carew said it seems they are building a template in a hurry and suggested tabling the matter to put some more thought into it. Mr. Hardison said the Commission can have a special meeting or workshop if they want to delay the decision but not wait until the next regular meeting.

Commissioner Conto said the possibility of unintended consequences is nagging at her.

Commissioner Carew said he worries about loopholes that could be found in the future if these rules weren't created thoughtfully.

Commissioner Boswell asked if staff has done any research on how other municipalities define events. Ms. Abbotts said they have not looked into the term “event” but just the definition for an event venue.

Vice Chairman Hogan asked if they can just address indoor events with this recommendation to keep things moving forward. Mr. Hardison said yes.

Mr. Urti said he is worried that doing this would eliminate the ability of the venue to have events with an outdoor component. Vice Chairman Hogan suggested having a cutoff time for the outdoor portion of events so the owners can keep moving forward with their plan while the Commission finds some harmony for the neighborhood.

Chairman Rouse suggested eliminating the part of the proposed text amendment that says the alcohol point of sale may be in an outdoor area located a minimum of 20 feet from any property line. He said once the project establishes a courtyard, the owners will have to come back with a site plan anyway so this shouldn't delay their progress.

Commissioner Piper said he likes the idea of starting with the indoors and then further refining this.

Mr. Urti said he is concerned that removing the outdoor component will mean he has to come back for another text amendment.

Mr. Hamlet said they are not reinventing the wheel because there are dozens of other event venues that do this and it's working for them.

Vice Chairman Hogan asked if the owners would be OK with a time limit for outdoors and no live music outside. Mr. Urti asked why this is necessary because he feels the noise ordinance would take care of any potential issues. He said the possibility of loopholes always exists, and hyper-analyzing will only hamper their efforts to create something different and not put themselves in one box. Mr. Urti said there are many establishments in the Town that are in disguise as a restaurant but really operate as a bar.

Commissioner Carew said they are not questioning the owners because their integrity is established in the community. He said he is concerned about what is being created in terms of a template that could be misused when the owners sell their property.

Commissioner Boswell suggested a time limit of 10:00 PM for any outdoor portions of events. Chairman Rouse said he thinks 9:00 PM would be reasonable. Several Commissioners agreed. Commissioner Boswell said this would eliminate the possibility of events operating as a bar with outdoor live music.

Commissioner Piper said he still thinks the Town needs a definition for “event” in the future. Mr. Urti suggested that an event could be defined as something that is planned and with a specific duration. Mr. Crouch said this needs to be defined in the Town ordinance.

Chairman Rouse said the Commission can make a decision tonight that allows the project to continue moving forward with most of the possible issues eliminated until the Town comes up with how to define an event. He said he thinks this is a reasonable compromise.

ACTION: Motion that whereas in accordance with the provisions of the North Carolina General Statutes, the Commission does hereby find and determine that the adoption of the following ordinance amendment to amend Chapter 40, Sec. 40-72 Table of permissible uses, Sec. 40-261 Development standards for particular uses, and Sec. 40-548 Definitions to amend standards for Event Venue/Bar is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans with the additional conditions to Sec. 40-261 that the outdoor point of sale, consumption, and entertainment will all end at 9:00 PM

Motion made by Vice Chairman Hogan, seconded by Commissioner Boswell

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

Motion passed unanimously

3. Conditional Zoning to consider an Event Venue/Bar at 205 Charlotte Avenue in the Central Business District
Applicant: Kindred Carolina Beach LLC

Applicant Kindred Carolina Beach LLC is proposing an Event Venue/Bar at 205 Charlotte Avenue as a use in the Central Business District (CBD). Event Venues/Bars are allowed through the approval of CZ in the CBD. CZ allows a particular use to be established only in accordance with specific standards and conditions pertaining to each individual development project. All applications shall include a site plan and any development standards to be approved concurrently with the rezoning application.

The applicant is proposing to renovate the former Deck House restaurant located at 205 Charlotte Avenue for the use of an Event Venue/Bar. The parking requirement for event venues is 1 per 110 square feet of indoor gross floor area. No parking shall be required for outdoor gross floor area if the establishment is located within 500 feet of public parking spaces. A 50% reduction in the parking requirement shall apply to outdoor gross floor area if the establishment is not within 500 feet of public parking spaces. The total indoor gross floor area of the building is 6,990 square feet. The total number of required spaces for the project is 64. There are 148 total spaces within 500 feet. No outdoor space is proposed currently. If any outdoor space for alcohol point of sale is proposed, it shall be considered a major modification of the CZ approval.

The applicant is requesting a waiver of the landscaping requirement. Landscaping requirements may be waived at the discretion of the Commission and/or Council on projects requiring CZ. There is an existing 6-foot fence between the building and the neighboring properties in the MX district.

Event venues must comply with all ABC and/or ALE standards. The use will be permitted through the ABC as a mixed-beverage bar. On-premise alcohol sales are limited to the duration of the event.

Proposed conditions are as follows:

1. The proposed use shall be limited to an indoor Event Venue/Bar.
2. The use and development of the subject property shall comply with all regulations and requirements of any other Federal, State, or local law, ordinance, or regulations.
3. Approval of this CZ rezoning does not constitute technical approval of the site plan.
4. A Type B landscape buffer shall be provided and delineated along the perimeter of the property except in areas waived by the Commission and Council.

Ms. Abbotts presented the details and showed photos of the site and surrounding uses. She said the CZ request is in general conformity with the 2020 Land Use Plan by promoting a healthy year-round economy, providing a family-friendly community, and promoting redevelopment. Staff recommends approval of the project with the proposed conditions.

As part of the CZ process, there was a required public meeting on December 5 with 27 people in attendance. Concerns were voiced about hours of operation, noise and fencing. The outdoor area presented at the public meeting is no longer part of the project.

Commissioner Piper asked what the plan is for 209 Charlotte Avenue. Ms. Abbotts said it's not part of this project and is currently being used as a parking lot. Mr. Hardison said that parcel is not associated with this approval.

ACTION: Motion to open the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

No one requested to speak.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

Chairman Rouse asked if there are typically any landscaping requirements on either side of the property on a similar request. Ms. Abbotts said because this is the CBD there is not, just on the portion adjacent to residential.

ACTION: Motion that whereas in accordance with the provisions of the North Carolina General Statutes, the Commission does hereby find and determine that the adoption of the Conditional Zoning District to allow for an Event Venue/Bar at 205 Charlotte Avenue is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans and the potential impacts on the surrounding area are mitigated by the approved conditions with the approval of a landscaper waiver and approval of a 200-foot separation from a residential district

Motion made by Vice Chairman Hogan, seconded by Commissioner Boswell

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

Motion passed unanimously

NON-AGENDA ITEMS

Vice Chairman Hogan said he received an email about Senate Bill 667, which involves regulation of short-term rentals. He said he is interested in doing this, but he thinks it's premature until they can see exactly what the State is going to do and what municipalities can and can't regulate.

Commissioner Crouch said it's easy for the State legislature to propose a bill and roll it around in committee for years.

Chairman Rouse said they need to wait for legislation to make sure things are clearly defined.

Commissioner Carew suggested looking at things that are neighborhood-friendly to help get short-term rentals to conform to what long-term residents are doing and be good neighbors. He said there are measures the Town can take now that have nothing to do with short-term rental nomenclature.

Vice Chairman Hogan said parking, trash, and noise are the main complaints he hears.

Mr. Hardison said the Town already has the ability to regulate some of the impacts of short-term rentals.

Commissioner Carew said the Town needs a solid plan for enforcement.

Commissioner Boswell asked staff to start looking at some things that can be done.

Commissioner Piper suggested that the Commission consider a height limit of 32 to 35 feet in the R-1 district adjacent to Carolina Sands. He said this should apply only to newly constructed multi-family homes and would prevent the creation of structures that are not in harmony with the neighborhood.

Chairman Rouse asked Commissioners to think about this and bring it up again to see if Council would like them to consider it. Mr. Hardison said the Commission could have an upcoming goals session and present a list to Council at a workshop. He said these would be big-ticket items that are not part of the UDO.

ADJOURNMENT

ACTION: Motion to adjourn

Motion made by Commissioner Crouch, seconded by Commissioner Conto

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

Motion passed unanimously

Chairman Rouse adjourned the meeting at 10:10 PM.