



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Sr Planner

DEPARTMENT: Planning &
Development

MEETING: Town Council – February 14th, 2023

SUBJECT: **Zoning Map Amendment** to consider a request to rezone 209 Charlotte Avenue from Mixed Use (MX) to Central Business District (CBD).
Applicant: Michael Urti

BACKGROUND:

The applicant, Michael Urti, has submitted a petition to consider rezoning 209 Charlotte Avenue from Mixed Use (MX) to Central Business District (CBD) Zoning. The neighboring property to the east is under the same ownership and is currently in the CBD. The applicant is requesting to combine both properties. The applicant has requested the rezoning because as the property owner of both parcels of land and operating under one business entity, they would like to see the same zoning apply to 209 Charlotte Ave, so all business-related decisions and operations fall under the same zoning guidelines.

For consistency and for the purpose of redevelopment it is best practice for the entirety of a property to be within the same zoning district. Redevelopment of the property would require the recombination of the property. One of the standards for creating zoning districts is to follow plotted lot lines. Guidance for the interpretation of zoning district boundaries comes from Sec. 40-45 (attachment 1) of the zoning ordinance. Previously 209 Charlotte Avenue existed as the parking lot for the previous Deckhouse restaurant at 205 Charlotte Avenue. Kate's Pancakes restaurant is East of the property, there are 5 residential uses across the street, and 5 residential uses to the rear of the property.

History:

205 Charlotte was constructed as the Carolina Beach Presbyterian Church in 1945. The property then operated as the Steeple Restaurant from 1985-1994. In 1994 a Conditional Use Permit was granted for the property to be used as a Mixed Use Facility (restaurant, lounge, retail shops) operating as J. Council's French American Restaurant. The Deck House Restaurant opened in 1998 and closed in September 2022. The 1984 Zoning Ordinance and Zoning Map had both properties, 205 and 209 Charlotte in the B-1: Central District. In 2000, 205 Charlotte was rezoned to CBD and

209 Charlotte was rezoned to MX. The five platted lots have been under the same ownership since 1985 when the property was operating as the Steeple Restaurant.

District Purpose and Permitted Uses:

The MX, Mixed Use Transitional District is established to provide for an area of transitional land uses between intensified use districts or elements and residential districts. This district includes an area of mixed land uses between the intensive, commercial, central part of Town and the quiet residential areas and may also be employed as a transitional area between busy major thoroughfares and quieter residential areas. Permitted uses include a mixture of single-family homes, two-family dwellings, and small-scale office and institutional uses. Small hotels and motels and multifamily housing of modest density and size may also be permitted in this district.

The CBD, Central Business District is established to accommodate, protect, rehabilitate, and maintain the traditional central business district and boardwalk area of the Town. This area accommodates a wide variety of pedestrian oriented, commercial and service activities, including retail, business, office, professional financial, entertainment, and tourism. The regulations of this district are intended to encourage the use of the land for concentrated development of permitted uses while maintaining a substantial relationship between land uses and the capacity of the Town’s infrastructure.

The Mixed Use District does allow for certain business uses like standard restaurants and eateries, general retail, offices, and mixed use commercial-residential but does not allow for more intense uses like bars and taverns, or commercial parking lots. A complete list of the uses allowed in both districts is shown on Attachment 2. The MX district is considered residential, and residents must abide by the standards of the noise ordinance for residential areas of a daytime level of 65dB(A) between the hours of 7:00am and 11:00pm, and the nighttime level of 55dB between the hours of 11:00pm and 7:00am. The Commercial district allows for a 75dB(A) daytime level between 7:00am and 11:00pm, and 65 dB(A) between the hours of 11:00pm and 7:00am, except on Friday and Saturday, the daytime levels shall remain in effect until midnight.

Dimensional Standards:

<i>Zoning District</i>	<i>Primary Permitted Uses</i>	<i>Min. Lot Size</i>	<i>Min. Lot Width⁵</i>	<i>Min. Front Yard</i>	<i>Min. Rear Yard</i>	<i>Min. Side Yards (Corner Lot-Min 12.5 ft.)⁵</i>	<i>Max. Density</i>	<i>Max. Height</i>	<i>Max. Lot Coverage</i>
MX	Mixed Use	5,000 sq. ft.	50 ft.	20 ft.	10 ft. ³	7.5 ft. ³	17 units/acre	50 ft.	40%

CBD	Commercial Uses and Services, Entertainment	None	None	None	None, or same as abutting residential use or district	None, or same as abutting residential use or district	NA	50 ft. ⁴	None
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The MX Zoning District requires setbacks and has a maximum lot coverage in all areas throughout the district. Much of the CBD has no setback or lot coverage requirement. Although the dimensional standards for both districts are different, properties in the CBD areas must have a rear and side setback that is the same as the residential zoning district it abuts. Landscaping standards are also required if a CBD parcel is adjacent to residential to mitigate the transition between the business and residential use.

Land Use Plan

The property is shown on the Future Land Use Map in the High Density Residential / Light Commercial Character Area. Primarily attached, multi-story residential units located within walking distance of activity centers and/or the waterfront. Structures are condominiums and apartments, often used as vacation and rental units. Limited commercial may also be acceptable at select locations if the context is appropriate. 205 Charlotte is shown within the Downtown Business Area. This is the boardwalk commercial area and central recreation district of town. 3-4 story buildings maintain a pedestrian-scaled environment with active ground floor uses; residential and other uses permitted above. Highly walkable with limited on-street parking. NCGS 160D states that if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required.

ACTION REQUESTED:

Consider recommending approval or denial of a zoning map amendment to rezone 209 Charlotte Avene from the MX zoning district to the CBD.

Staff recommends approval of the rezoning as proposed.

Planning and Zoning recommends approval of the rezoning as proposed.

MOTION:

Approval - whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine that the adoption of the Zoning Map Amendment for 209 Charlotte Avenue is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans.

A statement approving the proposed Zoning Map Amendment and declaring that this also amends the plan, to meet the vision of the community taken into consideration in the zoning amendment.

Denial - based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long-range planning documents and the potential impacts on the surrounding areas.

ATTACHMENTS:

1. Sec. 40-75. Rules for interpretation of district boundaries.
2. Sec. 40-72. Table of permissible uses.