

**Town of Surf City
Regular Council Meeting Minutes
October 1, 2013**

Mayor Guy called the regular monthly meeting of the Surf City Town Council to order at 7:00 p.m. Mayor Pro Tem Medlin gave the invocation, and Councilman Curley led the Pledge of Allegiance. Also present for the meeting were Councilwoman Albury, and Councilmen Fowler and Helms, Co-Interim Manager/Finance Director Jane Kirk, Co-Interim Manager/Fire Chief Joseph Rivenbark, Attorney Charles Lanier, and Town Clerk Patricia Arnold.

PROCLAMATION

National Fire Prevention
Breast Cancer Awareness Month
Community Planning Month
Brain Aneurysm Awareness Month

PRESENTATION

Employment Service Awards

Chris Benefield	5	Fire Engine Captain
Randy Jacobson	5	Firefighter
Allan Libby	5	Director of Tourism
Garrett Mauck	5	Police Officer II
Greg Prather	5	Parks Maintenance Supervisor
Windy Davis	10	Deputy Tax Collector
Shirley James	10	Administrative Assistant
Patricia Arnold	15	Town Clerk
Art Cunio	15	Corporal
Ron Shanahan	20	Assistant Chief
Dean Wise	35	Director of Public Works

BEAUTIFICATION & APPEARANCE RECOGNITION

Mayor Guy presented the Proclamations for the Home of the Month for October to Coty & Danette Lake for their property located at 115 Seahorse Ave. and the Businesses of the Month for October to Thomas Tack & Seafood owned by Doug Thomas and located at 14210 Hwy 50/210.

APPROVAL OF MINUTES

Minutes of the September 3, 2013 Regular Meeting were recommended for approval by Town Attorney Charles Lanier. Motion was made by Mayor Pro Tem Medlin and seconded by Councilman Helms to approve as presented and was carried unanimously.

PUBLIC HEARING

Rezoning - 1213 S. Shore Drive R10 to R5

Mayor Guy recessed the regular council meeting at 7:34 P.M. to open the public hearing for comment on Conditional Use Permit requested by Topsail Boat Rental LLC.

Town Planner Rademacher stated that the applicant the applicant, David Ward would like to rezone the property located at 1213 South Shore Drive. This property is more specifically located at the S-curve or where South Shore Dr. and South Topsail Dr. meet. The existing zoning is R10 and allows for single family homes and duplexes on minimum of 10,000 square foot lots.

The adjacent properties are a mixture of single family homes, duplexes and vacant land. Zoning for the adjoin properties are R5, R10 and PUD which all allow for the development of single family homes and duplexes. The property also is the location of one of the Town's lift station sites. The land use plan calls this area Island Residential-High Density which is consistent with the development of single family homes and duplexes on smaller lots.

A rezoning to R5 would still allow for duplexes to be built but on lots that are a minimum of 8500 square feet as opposed to 10,000 square foot lots, single family homes would be allowed on minimum 5000 square foot lots as opposed to 10,000 square foot lots.. In regard to minimum required setbacks R5 standards of 15 feet on the front, 7.5 feet on the sides and 20 feet on the rear. Setbacks for R10 would require a 25 foot front setback with the remaining setbacks being the same as R5.

The Planning Board does recommend this rezoning as it is consistent with the uses proposed in the land use plan and would be compatible with all existing uses in the vicinity of this property.

Public Hearing was closed at 7:37 P.M.

Mayor Pro Tem Medlin made a motion to approve the rezoning for 1213 S. Shore Drive from R10 to R5. Councilwoman Albury seconded motion. Motion unanimously carried.

PUBLIC HEARING

Rezoning Bryan's Court Subdivision MHS to R5

Mayor Guy recessed the regular council meeting at 7:34 P.M. to open the public hearing for comment on Conditional Use Permit requested by Topsail Boat Rental LLC.

Town Planner Rademacher stated that the applicant The applicant, would like to rezone the remainder of property at the Bryan's Court subdivision. The property is currently zoned MHS or Mobile Home Subdivision and is in the Mainland Transition-Residential according to the Land Use Plan. The request would change the property to R-5 Residential. The property is located adjacent to the Surf City Community Center, there

is a mobile home park across JH Batts Road and Vacant properties on the remaining sides. In April of 2012 the Town rezoned the existing 11 lots at this subdivision to R5.

A rezoning to R5 would eliminate the ability to place manufactured homes on the properties but would allow for duplexes to be built on lots that are a minimum of 8500 square feet. In regard to minimum lot sizes required and setbacks both zoning districts have the same standards of 15 feet on the front, 7.5 feet on the sides and 20 feet on the rear.

The Planning Board does recommend this rezoning as it is consistent with the uses proposed in the land use plan and would be compatible with all existing uses in the vicinity of this property.

Public Hearing was closed at 7:37 P.M.

Mayor Pro Tem Medlin made a motion to approve the rezoning Bryan's Court Subdivision from MHS to R5. Councilwoman Albury seconded motion. Motion unanimously carried.

PUBLIC HEARING

Zoning Text Amendment: Board of Adjustment Standards

Mayor Guy recessed the regular council meeting at 7:34 P.M. to open the public hearing for comment on Conditional Use Permit requested by Topsail Boat Rental LLC.

Town Planner Rademacher stated that due to legislative changes in H.B. 276, An Act to Clarify and Modernize Statutes Regarding Zoning and Boards of Adjustment, will be effective on October 1, 2013. Current documents and procedures must be updated to reflect the new statutes.

Voting standards currently require a 4/5 vote to reverse any order, requirement, decision or determination. H.B. 276 states that a 4/5 vote is necessary only for variance cases. All other quasi-judicial cases can pass with a simple majority vote of BOA members. This is especially relevant when hearing appeals, a majority vote will decide the outcome.

Also, changes to the four criteria listed in the legislation will replace current text in the Ordinance. Adopting the wording directly from H.B. 276 would allow for a greater uniformity in the variance process aligning our criteria with other jurisdictions Statewide.

The proposed changes shown below have been reviewed by the Town Attorney for consistency with the new state law.

The Planning Board recommends making the following changes, shown in bold, to the Town of Surf City Zoning Ordinance:

14.1 - Creating the board of adjustment.

The Surf City town council shall provide for the appointment of the board of adjustment (hereinafter called the board). Insofar as possible, members of the board shall be appointed from different areas within the town zoning jurisdiction. The board shall consist of a minimum of five (5) members. Insofar as possible, initial appointments to the board shall be as follows: one-third (1/3) for a term of three (3) years; one-third for a term of two (2) years; and one-third for a term of three (3) years to serve in the absence of regular members. The successor to the regular and alternate members shall be appointed for three-year terms. Vacancies shall be filled for the unexpired term only. Members of the board of adjustment may be removed for cause in accordance with their rules or procedure.

14.2 - Meetings.

The town council shall appoint one (1) of the board members as chairman and another as vice-chairman who shall serve for one (1) year. The board shall draw up and adopt rules of procedures under which it will operate. Meetings of the board shall be held at the call of the chairman and at such times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.

14.3 - Filing and notice for an appeal.

Appeals from the enforcement and interpretation of this ordinance and application for variances may be taken to the board of adjustment by any person aggrieved or by any office, department, board or bureau of the town affected. Notice of appeal to the board of adjustment shall be filed with the town planner. An appeal stays all proceedings in furtherance of the action from, unless the town planner certifies to the board that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record.

Hearing of the appeal. After receipt of the notice of appeal, the board chairman shall schedule the time for a hearing, which shall be at least twenty (20) working days following receipt of the appeal and which shall allow adequate time for required public hearing notices.

Notice. ~~At least one (1) week prior to the date of the hearing, the town planner shall furnish all adjoining property owners with written notices of the hearing. Notice of public hearings shall be published once a week for two (2) successive weeks in the local newspaper. Public notice may also be posted on the property concerned indicating the proposed change and date of public hearing.~~ **The notice must be deposited in the mail at least 10 days, but not more than 25 days prior to the date of the hearing.**

Within that same period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way."

Fees for appeals. Applications for appeals shall be accompanied by the required application fee, as set from time to time by the town council.

14.4 - Powers and duties.

The board of adjustment shall have the following powers and duties:

1) To hear and decide appeals where it is alleged by the appellant that there is error in any decision made by the town planner or other administrative officials in the carrying out or enforcement of any provision of the ordinance. A **simple majority** ~~concurring vote of four-fifths (4/5)~~ of the members of the board shall be necessary to reverse, wholly or partly any such decision.

2) To authorize ~~upon appeal in specific cases such~~ variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this ordinance. A variance from the terms of this ordinance shall not be granted by the board unless and until the following findings are made:

a) That **an** ~~special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures or buildings in the same district;~~ **unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.**

b) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; **the hardship results from conditions that are peculiar to the property, such as location, size, and topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.**

c) That the ~~special conditions and circumstances do not result from the actions of the applicant;~~ **hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship.**

d) That ~~granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other land, structures or buildings in the same district.~~ **the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved**

3) A vote of 4/5 shall be required to grant a variance from the terms of this ordinance.

Public Hearing was closed at 7:37 P.M.

Mayor Pro Tem Medlin made a motion to approve the Zoning Text Amendment: Board of Adjustment Standards. Councilwoman Albury seconded motion. Motion unanimously carried.

PUBLIC HEARING

Text Amendment: Allowing Golf Carts

Mayor Guy recessed the regular council meeting at 7:34 P.M. to open the public hearing for comment on Conditional Use Permit requested by Topsail Boat Rental LLC.

Public Hearing was closed at 7:37 P.M.

Mayor Pro Tem Medlin made a motion to approve the text amendment for golf carts. Councilwoman Albury seconded motion. Motion unanimously carried.

PUBLIC HEARING

Text Amendments: Regulating tents & items on Beach.

Mayor Guy recessed the regular council meeting at 7:34 P.M. to open the public hearing for comment on Conditional Use Permit requested by Topsail Boat Rental LLC.

Public Hearing was closed at 7:37 P.M.

Mayor Pro Tem Medlin made a motion to approve the text amendments for regulating tents and items on beach. Councilwoman Albury seconded motion. Motion unanimously carried.

SURPLUS VEHICLES

The Police Department requests that the following equipment be deem surplus:

1. 2002 Saab YS3EB59E123035958
2. 1996 Infiniti JNKCA21D3TT301189
3. 2000 Chev Blazer 1GGNCS13W7Y2273988

Councilman Helms made a motion to approve the tax releases. Councilwoman Albury seconded motion. Motion carried unanimously.

ONslow COUNTY REVALUATION INFORMATION (HARRY SMITH)

TAX RELEASES

Councilman Helms made a motion to approve the tax releases. Councilwoman Albury seconded motion. Motion carried unanimously. Copy of tax releases are attached to these minutes

RECORDS RETENTION

Councilman Helms made a motion to approve the tax releases. Councilwoman Albury seconded motion. Motion carried unanimously. Copy of approved records retention schedules attached to these minutes.

PERSONNEL POLICY

Councilman Helms made a motion to approve the tax releases. Councilwoman Albury seconded motion. Motion carried unanimously

PERSONNEL CHANGES

Councilman Helms made a motion to approve the tax releases. Councilwoman Albury seconded motion. Motion carried unanimously.

RESOLUTION ON DIRECTING THE CLERK TO INVESTIGATE A PETITION FOR CONTIGUOUS VOLUNTEER ANNEXATION AND SET A PUBLIC HEARING – 2.51 ACRES AT 100 DEER RUN RD.

Councilman Helms made a motion to direct the Clerk to investigate a Petition for satellite annexation, to set a Public Hearing date for November 6, 2013 and send the request to the Planning Board for zoning recommendation. Mayor Pro Tem Medlin seconded motion. Motion unanimously carried. Copy of Resolutions is attached to these minutes.

WARD REAL ESTATE SITE PLAN

Town Planner Rademacher stated that the applicant, David Ward, has submitted a site plan for the approval of a two story 7111 square foot office building to be used as the new Ward Realty office building. The project is located at the intersection of South Topsail Drive and Kinston Avenue. There is also frontage on South Shore Drive. The site is zoned C1 commercial which permits, as a use by right, the development of office/retail spaces including real estate offices. Adjacent property uses consist of commercial buildings and residential homes. The applicant has submitted a plan showing compliance with the sidewalk ordinance which will require walks along all street frontages show. Parking must be provided at a minimum ratio of 1 space for every 400 square feet of office space which would require 18 parking spaces, there are 23 spaces provided on this plan. Architectural requirements for this building meet the minimum requirements of the ordinance; the Fire Department has reviewed the plan and has found the submittal to be in compliance with the ordinance. Water and sewer service will be provided via services off of Kinston Avenue as shown on the plan. Stormwater has been designed by an engineer and will utilize pervious concrete on a rock base for infiltration. Driveway access is to be provided by three driveways and has been designed to accommodate rental changeover day that we typically see on the island. Access is provided off of all three roads with the South Topsail access requiring NCDOT

approval. No free standing lights have been proposed for this site plan therefore no lighting plan was required.

Mr. Ward is currently under review with the state environmental offices as to whether or not a major CAMA permit will be required or a minor CAMA permit will be required. At the time of this submittal no determination had been made by the State.

The Planning Board recommends approval of the site plan with changes to the landscaping plan by adding trees to both sides of the driveway on Kinston Ave as well as changing street trees shown as wax myrtles to another species. All other aspects of the site plan were found to be in compliance with the ordinance.

Councilman Helms made a motion to approve the tax releases. Councilwoman Albury seconded motion. Motion carried unanimously.

PUBLIC FORUM

No comments.

COUNCIL FORUM

Councilman Curley thanked everyone for coming.

Councilwoman Albury thanked everyone for coming and hopes the hurricanes will stay away.

Councilman Fowler stated that soccer starts Saturday, that there will not be a concert this weekend, and stated that there were a large crowd this past weekend.

Councilman Helms thanked everyone for coming and hoped everyone had a great Labor Day.

Mayor Pro Tem Medlin stated that he was excited and looking forward to the college coming. It is a big compliment for them to be in our town.

Mayor Guy

MANAGER REPORT

Co-Interim/Fire Chief Rivenbark stated that September 1st starts in insurance rating from 6 to 5 on commercial buildings

TOWN ATTORNEY REPORT

No report at this time.

ADJOURNMENT

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There being no further business Mayor Guy adjourned the meeting at 7:47 p.m. upon the motion by Mayor Pro Tem Medlin and seconded by Councilman Fowler. The Council unanimously approved motion.

Patricia E. Arnold, Town Clerk

A. D. (Zander) Guy, Jr., Mayor