

MINUTES
BOARD OF ALDERMEN
SEPTEMBER 8, 2016

Mayor Blair called the meeting to order at 5:30 p.m. in Council Chambers of Town Hall.

Attendance: Mayor William J. Blair III, Mayor Pro Tem Darryl Mills, Alderman Elizabeth King, Alderman Henry E. Miller III, and Alderman Lisa Weeks; together with Town Attorney John C. Wessell III, Town Manager Timothy W. Owens and Town Clerk Sylvia J. Holleman.

Pledge of Allegiance

Invocation by Rev. John McIntyre, Wrightsville Beach Baptist Church

PUBLIC COMMENTS: CHRISTINA BUDRES – BANNING OF STYROFOAM AND PLASTIC BAGS; AND SUE BULLUCK – CHAMBER FUTURE PLANNING.

Ms. Christina Budres, resident of Castle Hayne, North Carolina, spoke about the alarming amount of non-decomposing plastic Styrofoam that she had found on the south end of Wrightsville Beach in August. She said, "After one week of Wrightsville Beach collections, we discovered an alarming average: every 500 feet we collected 32 ounces of Styrofoam in a glass jar. The collection also included plastic bags, pieces of plastic bags, plastic bottles, bottle caps, diapers, miscellaneous garbage and too many cigarette butts to count." Ms. Budres then reviewed statistics regarding the amount of "garbage" affecting oceans and ecosystems around the world and said a large portion of that was made of materials that would not decompose and was hazardous to our wildlife, including oysters. She stated that she had a petition going around with a thirty-minute video showing the garbage on the beach. Ms. Budres noted that France had just voted to ban single-use plastic-ware and a vast number of cities and states had already banned or were considering banning plastic or polystyrene, either partially or completely. She asked the Board to strongly consider legislation now to help protect our coast; and to consider signing her petition.

Ms. Sue Bulluck, speaking for the Chamber and as the consultant for Moore's Inlet, a hotel, and a business on Wrightsville Beach, said, "The young speaker that was just here – her concerns are our concerns, too. Tonight's agenda has CAMA Land Use Plan issues which include the planning tools for what our beach is going to be in the future; there's a process on Salisbury that speaks to that. I ask you to keep an open mind as you approach these issues because we can't even get to the discussion on some of them without allowing the tools for us to get there. I ask that you appoint some business folks; we've got 22 folks invited to a meeting later on this month who are the property owners of business properties on the beach. Their future is part of our two-billion-dollar beach and they need to be part of the land use planning process. Our water and sewer issues that you're addressing tonight are tied long term to our tax base and how much water and sewer usage we need, and that's tied to the next twenty-year plan. September 22, 2006 is when our last Land Use Plan was certified. It is a planning tool; it is not a legislative order. However, what we put in that, based on how our ordinances read, is what we're going to be using for fact finding and other essential portions of conditional use permits, etc. So, I urge you to keep an open mind; look toward the future. Don't get bogged down in the 'he said – she said' or 'we moved this because' or 'the setback is this' or 'the height is that.' All of those things are part of what will come to bear on the Land Use Plan. My second meeting is the Beach Inlet Management Plan (BIMP); they're having their legislative hearing tonight from six to eight. In the past, BIMP has been a collective group of folks interested in dredging and shallow draft dredging and spoils, etc. That group

is now being expanded to include suggestions for how the soil is used, how the beach dredgings are used, and how beach reconstruction might be funded. I'm going there to listen and to tell them that we serve the whole state and many from out of state, and that beach development and reconstruction is not only our problem, but it's the state's problem. Unfortunately, the feds are embroiled in the national election and I don't expect much out of them until well into next year. So, our fate may well lay in the hands of the next Legislature. So, I urge you to send our concerns and our urgings that we need state help for this. Thank you. Keep an open mind and give us a couple of people on the planning group from business."

CONSENT AGENDA APPROVED UNANIMOUSLY WITH REMOVAL OF WB ELEMENTARY SCHOOL FALL FESTIVAL SPECIAL EVENT PERMIT AND REQUEST TO SET A PUBLIC HEARING ON OCTOBER 13, 2016 FOR A TEXT AMENDMENT TO ALLOW THE CREATION OF A MIXED USE OVERLAY DISTRICT BY MOTION OF ALDERMAN MILLER AND SECOND BY MAYOR PRO TEM MILLS.

- a. Approved Regular Minutes of June 8, 2016, Regular and Closed Session Minutes of July 20, 2016, and Regular and Closed Session Minutes of August 11, 2016.
- b. Acknowledged previously approved special events for October.
- c. Adopted Resolution No. (2016) 1996 declaring the Week of September 17-23, 2016 as Constitution Week in Wrightsville Beach.
- d. Accepted donation of bench from Peter Gillman-Bryan in memory of Todd Fulda on the beach strand in the area of Wrightsville Dunes. Mr. Gillman-Bryan plans to construct the bench, including memorial inscription, and Town staff will oversee the project and install the bench.
- e. Approved revised 2016 Board of Adjustment Meeting Schedule to cancel the September 22nd meeting.
- f. Approved revised 2016 Parks and Recreation Advisory Committee Meeting Schedule to cancel the September 12th meeting.
- g. Approved revised 2016 Water and Sewer Future Needs Ad Hoc Committee to set a meeting for September 19th at 5:30 p.m.

SPECIAL EVENT PERMIT FOR WB ELEMENTARY SCHOOL FALL FESTIVAL (500 PARTICIPANTS); REQUEST TO CLOSE CORAL DRIVE; FRIDAY, OCTOBER 28, 2016 (3:30 PM – 6:30 PM) (EVENT 4:15 – 6:15 PM).

Alderman Weeks stated that she had pulled this item from the Consent Agenda to ask a question about the closing of Coral Drive for the Fall Festival. She asked if there would be 'No Parking' on Coral except for the volunteers as all of the patrons would be parking at the churches and trolleying down North Channel. Program Supervisor Katie Ryan explained that they do that each year and they get police support to keep from having so much traffic. Alderman Weeks expressed concern that they would all park on North Channel in the street. She said she would like to prevent that if possible because they would be blocking the street and a fire truck would not be able to get through in case of emergency. She suggested monitoring North Channel and Coral and having parking at the churches. Alderman Weeks made the motion to approve this item with some communication about parking on North Channel. The motion was seconded by Mayor Pro Tem Mills and unanimously approved.

SET PUBLIC HEARING FOR THURSDAY, OCTOBER 13, 2016 AT 5:30 P.M. TO CONSIDER A TEXT AMENDMENT TO CHAPTER 155 TO ADD SECTION 155.6.6 OVERLAY DISTRICTS TO ALLOW FOR THE CREATION OF A MIXED-USE ZONING OVERLAY DISTRICT FOR PROPERTIES LOCATED WITHIN A CERTAIN PORTION OF THE C-2 COMMERCIAL DISTRICT BOUNDED TO THE NORTH BY SEAGULL STREET, TO THE SOUTH BY EAST SALISBURY STREET, TO THE WEST BY NORTH LUMINA AVENUE, AND TO THE EAST BY THE BEACH STRAND/ATLANTIC OCEAN. MIXED-USE DEVELOPMENTS LOCATED WITHIN THE MIXED-USE ZONING OVERLAY DISTRICT WOULD BE SUBJECT TO A 50-FOOT HEIGHT LIMITATION RATHER THAN THE 40-FOOT HEIGHT LIMITATION CURRENTLY IN EFFECT FOR ALL ZONING DISTRICTS.

Mayor Pro Tem Mills said he had pulled this item from the Consent Agenda because he felt there was some confusion about this after the Planning Board meeting. He asked the Town Manager to address the confusion. Mr. Owens said, "If this is approved, what this does is create a zoning district; it's not applying that zoning district, they would still have to go through a zoning process like you would for a rezoning; there's a process in the General Statutes. So, this is just creating words in a book that give you the tool to potentially look at a project first through a conditional use permit and then you'd have to go through a rezoning process. The new zone that would basically be created if approved would be the Mixed Use Overlay District (MUOD). There are also three to four other items that staff caught that we'd probably have to clean up in the meantime, too. So, all of that would be coming forward at one time if this is ultimately approved and the applicant decided to move forward with this. If the Board doesn't want to approve a new district, that's their prerogative as well." When asked if approving this would approve any height over forty feet, Mr. Owens said it would approve a district and you would have to apply it to a parcel. Mayor Pro Tem Mills noted that this would not approve any specific project; it would just create a construct in which a project could come under. Alderman Miller asked why we wouldn't just revisit the issue instead dancing around it? Mayor Blair said this would give them the ability to actually present a project. Alderman Miller asked why we would go back to what the Board denied a year and a half ago regarding accepting projects over forty feet. He asked what the difference was with this. Mr. Owens said, "This is something that the applicant is asking to be moved forward, so we had to move forward because it was their request." Mayor Blair said, "If we approve this, that means regardless of that project, this overlay district stays in effect?" Mr. Owens replied, "If it's in the book, someone could come in and ask to rezone to an MUOD classification. But it's just in the books; it's not being applied to the ground. You've got to go through a rezoning or zoning process. You would be creating a district just like you've got a C-2; if another parcel wants to be C-2, they have to ask to be rezoned to C-2. It would be the same with this; it's a MUOD overlay district that would allow projects to go up to fifty feet if you approve it. It would also allow the underlying uses." Alderman Weeks said, "Otherwise, there is not a vehicle for a project to come to us for vetting above forty feet." Mr. Owens said, "At this point, there's not." Mayor Blair said, "But, if we had vetted that through a text amendment to start with, we could have done that; so what's the difference?" Mr. Owens replied, "I think the Board at that time felt like that opened it up to the whole Town; this would limit the area because the specific area is listed in the overlay district; then you have to go through a specific legislative process to actually plot that."

Mayor Pro Tem Mills asked what would prevent the next person from wanting to do the same thing in a different area. Mr. Owens replied, “They would have to change the text to this MUOD to allow for their specific area; they would have to go through the text amendment process.” Alderman Miller noted that it would be up to the Board to decide if there was a difference in the areas.

Mayor Pro Tem Mills asked Mr. Wessell, “If we entertain this, is that some evidence that we’re willing to go down that road and, if we don’t approve it, are we acting arbitrarily?” Mr. Wessell replied, “I guess that depends on why you elect not to approve it. Keep in mind what the process will be: first you’d have to adopt this amendment so that it allows for a project to come before you that would be more than forty feet in height; and then the process of the applicant seeking approval for such a project, they have to demonstrate to you that the conditions required in the ordinance for the issuance of a conditional use permit are satisfied. If there’s a legitimate basis for saying those conditions are not satisfied, then you’re justified in denying the project. You have to look over them on a project-by-project basis and the applicant has the burden of proof of establishing that those numerous conditions are satisfied.” Mayor Pro Tem Mills said, “If we open the door to that by approving such a text amendment.” Mr. Wessell said, “Correct. That’s the only way an applicant could get a project before you. And you’re going to have to do some other text amendments, too, like the one that says the Town cannot accept an application that has a height in excess of forty feet.” Alderman King said, “We already handled that; we said no.” Mr. Wessell said, “If you’re going to make effective this Mixed Use Overlay District, you’re going to have to repeal that ordinance. In response to Mayor Pro Tem Mills’ question, if you were to adopt the ordinance as proposed, that is certainly some indication that you’re at least willing to look at a project that exceeds forty feet.” Alderman Miller said, “Just to be clear, we looked at mixed use in total last time.” Mr. Wessell said, “If we’re talking about the last time the matter came before you in some fashion, that was an ordinance to eliminate the requirement that the Town cannot consider an application for a project in excess of forty feet. And you said no, you weren’t willing to make that change.” When Alderman Miller referenced the proposed text amendment for the overlay district in the Salisbury Street area, Mr. Wessell said, “It certainly is some indication that you’re willing to consider it; I can’t see how you’d read it otherwise. That’s not a legal answer; that’s just a common sense answer. It doesn’t necessarily mean you approve the project; it means you’re willing to look at the project.”

Mayor Blair clarified that tonight, the Board would just be setting a public hearing. He then made the motion to set the public hearing. The motion was seconded by Alderman Miller and unanimously approved.

PUBLIC HEARING FOR CONSIDERATION OF AN AMENDMENT TO THE EXISTING CONDITIONAL USE PERMIT FOR ROBERTS GROCERY, 32 NORTH LUMINA AVENUE, TO MODIFY THE REQUIRED NUMBER OF RESERVED PARKING SPACES IN ROBERTS’ COMMERCIAL PUBLIC PARKING LOT (27 NORTH LUMINA AVENUE) FROM FIVE SPACES TO NINE SPACES.

Mayor Blair explained that this public hearing was for consideration of a parking exception for the Roberts’ commercial public parking lot at 27 North Lumina Avenue and not the conditional use permit for Charlie Grainger’s. He then administered the oath to those wishing to address the subject.

Planning and Parks Director Tony Wilson gave the following overview: “We’re looking at the parking lot across the street from Robert’s at 27 North Lumina. On July 21, 2016, our department received a conditional use permit application from Mr. Blair Goodrich, authorized agent for the property owners Jerry Lachman and Allan Middleton. The applicants have requested a modification to the existing conditional use permit that was granted on November 12, 2009; the original conditional use permit for 32 North Lumina Avenue authorized the use of the parking lot as a commercial parking lot with a total of 28 parking spaces. The original conditional use permit required two spaces to be set aside for customers for Robert’s and three spaces to be set aside for Rita’s Ice at the time. Remember Robert’s doesn’t need any parking; it’s been a building there for some time. The two parking spaces were for maybe a coffee shop that was there at some time. The conditional use permit application for Charlie Grainger’s was received by the Planning and Inspections Department on June 27, 2016. After reviewing the conditional use permit application, staff did determine that the restaurant would not be eligible for a parking exception as adequate parking was available directly across the street. In order for the Board to consider the conditional use permit application for Charlie Grainger’s, the existing conditional use permit for the commercial parking lot must be modified to reflect the increase in parking requirements that would occur if the conditional use permit for Charlie Grainger’s is approved. If approved, Charlie Grainger’s would be considered a standard restaurant, meaning that the business would be required to provide one parking space for each four persons on the maximum posted occupancy placard plus one additional parking space for each two employees on the largest shift. Charlie Grainger’s would be required to have seven parking spaces. There were no comments from the Police Department, Fire Department or Public Works Department. We believe this is consistent with Policy 9.1.A.5 Commercial Development of the CAMA Land Use Plan. The requirements and findings are stipulated in Section 155.4.5.4(E) of the Code of Ordinances. Staff supports the applicant’s request to modify their existing conditional use permit to accommodate the increase in parking requirements if the conditional use permit application is approved for Charlie Grainger’s. At the Planning Board meeting on August 2, 2016, the Planning Board voted unanimously to forward a favorable recommendation to the Board of Aldermen for the conditional use permit to modify the required number of spaces in Robert’s commercial public parking lot from five spaces to nine spaces with the following conditions: 1) The addition of two quality trashcans/trash pickup by the Town with private and public cooperation (the Town Manager and I discussed this condition and felt we could not impose this condition); 2) Signage for the seven spaces for Charlie Grainger’s parking spaces and two spaces for Robert’s; 3) Parking spaces that are reserved for these two businesses shall be made available exclusively for customers of these establishments and shall not be made available to non-customers while these establishments are in operation; and 4) Staff recommends that all existing conditions remain in effect for the existing conditional use permit. The site plan that was submitted is not the same one that was approved by the Board in 2009. The Board should not consider the submitted site plan but instead, look at the site plan for 2009 that has the handicap parking space that was removed at some point in time. There is a requirement to provide handicap parking by the state building code and we reflect on that in some of our ordinances. Staff asks, as another condition, to install that ‘van accessible handicap parking space’ back there in his parking lot.” Following a brief discussion regarding the possible need for two handicap parking spaces – one for each business, Mr. Wilson reminded the Board that Robert’s is not required to have any parking and staff felt one handicap space would be enough. Mr. Owens expressed the need to designate the handicap parking space as well as designating which parking spaces would be for Robert’s and which spaces would be for Charlie Grainger’s.

Mayor Blair stated that he felt it wouldn't make any sense to approve a parking plan unless the Board had something that was correct showing the designated parking spaces. Mayor Pro Tem Mills said the Board could approve it subject to their submittal of a plan showing the designated parking spaces. Mr. Wilson stated that signage has to be there as well. When asked if they were aware that the signage was tied into the conditional use permit, Mr. Owens said that was a condition that staff was requesting to be placed in the conditional use permit.

Alderman Weeks noted that some of Charlie Grainger's food would be take-out and said she was curious as to why Charlie Grainger's customers would have to maneuver through all of those parking places for beachgoers to get to that business. She asked why they wouldn't designate that whole area for Robert's and Charlie Grainger's. She said they were charging for paid parking for people walking to the beach and, as a business owner, she would want to make it as easy as possible for her patrons to get in and out of the lot. Mr. Wilson said he thought the architect could address that. Mayor Blair said, "I kind of agree; if you're going to set this up as consumer parking, it needs to be set up as consumer parking and not like that."

Mr. Sam Frank stated that he was representing the applicant and he appreciated the staff's report. He said he would defer to Mr. Goodrich to respond to the questions that were just raised.

Mr. Blair Goodrich, architect representing Charlie Grainger's, said, "The reason we picked those spaces is because there were seven spaces right together and I figured that would be the easiest way to do it. If you want to shift it, they're open to putting them anywhere that we need to put them. We know there has to be a handicap space and I've talked to D.O.I. and we've already gone through that; there will be a handicap space put back into the parking lot. They are open to all of the conditions that were presented at the Planning Board and everything has been agreed upon with Charlie Grainger's and with Allan and Jerry."

Alderman Weeks asked where they would put the handicap space. Mr. Goodrich replied, "Probably where those two gold That or it would be in Number 10 or 11." Mr. Wessell asked if the Board was making it clear to Mr. Goodrich which plan was being considered. Mr. Goodrich said he understood which plan they were operating off of. He then showed where the handicap space would be and said the seven spaces past that would be for Charlie Grainger's, with the other two spaces (Numbers 10 and 11) for Robert's. Mayor Blair asked if that would be on placards and not painted on the ground. Mr. Owens said that was one of the conditions. Mayor Pro Tem Mills asked how that would be policed. Mr. Goodrich said he thought that would have to be up to the property owner. Alderman King asked if there was supposed to be a paid attendant. Mr. Goodrich said, "Yes, as long as they have an attendant there." Mr. Owens said they would have an attendant until 10:00 p.m. Mayor Blair said, "We need to put it back on the property owners and if they abuse it, then it goes away." Mr. Owens said it was however they want to manage it.

Alderman Weeks said, "We're opening back up the conditional use permit for the parking lot so, we talked about this before about putting some conditions on having weekly landscape service and I think this is a good opportunity to do that. I walk that neighborhood a lot and it's a problem; between weeds and not trimming the

bushes and cleaning up the trash. So, I would like to have some condition on there that between Easter and Labor Day or something that there's a weekly landscape service. There have been some other business owners that have been willing to join together with that downtown area to hire a landscaping service – we tried that a couple of years ago. I just think we need more formal service to keep that area clean – and power wash the sidewalks on a monthly basis or something to that effect because it is the most visible part of the beach.” Mayor Blair asked if she would take the Planning Board's recommendation Number 1 and expand on that – about public and private cooperation with trash pickup. Mr. Owens said, “I'm not a big fan of that condition; I don't even know what that means. I don't want that to be a condition; I don't mind working with them to see if we can add an additional trashcan as a Public Works-type deal, so, I'd like to strike that and if the Board wants to add another condition.” Mayor Blair said, “If we strike condition Number 1, what do you want to do about landscaping?” Alderman Weeks replied, “Just have a service to keep the area clean once a week during the busy season and once a month in the off season or something to that effect. And I think all of these business owners could get together and share all of the costs but this is an opportunity to put a condition on a lot that is generating income for the business owner.” Mayor Blair asked if she would rather try to handle that in the CAMA Land Use Plan. Alderman Weeks said she thought it should be part of the conditional use because it was a privilege to be able to charge for parking in their location – a commercial lot.” When asked how we could define that, Mr. Wilson showed the language that was used for 13 East Salisbury Street. Alderman Weeks said, “We did every two weeks from April through October for Buddy's. I think this is a good frame for it but I think the downtown area during the busy season is once a week; but I'm open to whatever the Board wants to consider.”

Alderman King noted that they would keep the four trashcans that they have now in the parking lot and then add two more. She said she thought it was a private issue to keep that lot clean. Alderman Weeks noted that the trashcans were for the people renting. Mr. Owens said he did not see that in the conditions. He asked Mr. Wilson to be very clear about what conditions we want to continue over. Mr. Wilson said, “Here are the recommended conditions on one of the conditional use permits – Number 3: at least one trash receptacle shall be maintained in each of the corners of the lot; the applicant shall not levy a parking fee less than the Town's parking rate; no tailgating – that was discussed at one time; Number 5: the property owner shall be responsible for maintaining the property in a clean and orderly condition.” Alderman Weeks expressed the need to have uniform guidelines for keeping that area clean because it is not happening. Alderman King said that is what we did for the churches and if they don't do it, they could lose their conditional use permit.

Mayor Blair opened the public hearing at 6:15 p.m.

Mr. Peter Stillman, 14 Birmingham Street, said, “I'd like to address three things that struck me as questions; one of them relates to what you were just talking about – the trashcans. When we were at the Planning Board hearing, one of the things that came up was that the current trash receptacles are quite inadequate. So, I think more than just requiring trashcans at each of the corners, it would be important to talk about the quality of the trashcans that are required. The second thing is, I don't know when any of you last drove on Sweeney Street, but that is a street hardly conducive to accepting any traffic and it's also a street hardly conducive to coming out of Sweeney

Street and taking a left turn onto North Lumina; that strikes me as a difficulty. The third thing that I'm very concerned about is that because the parking lot is across the street from Charlie Grainger's, what it's going to do is to increase pedestrian traffic across the street and as far as I can tell, there's no legal crosswalk across Lumina Avenue unless you go up to Stone Street. That would be especially true now that a required handicap parking place is in place, but it would be true for any number of other people crossing the street. Since Charlie Grainger's would have people parking a much shorter time than the long-term all-day beach parking people, there would be more pedestrian traffic." Mayor Pro Tem Mills asked Mr. Stillman what he meant about the "quality" of the trashcans – if he was talking about the capacity. Mr. Stillman replied, "I think I would want to say both. The ones that are there now strike me as not very good; they don't hold very much, they're very easy to take the tops off to have them be knocked over. I don't know enough about trashcan technology but you could do a lot better especially in a place that's going to get a lot of garbage. There are solar compacting ones that I've seen at colleges and other kinds of institutions like that."

Mayor Blair asked why they didn't use the 55-gallon ones with lids. He said, "I think an attempt to try to put something heavier gauge and larger with a lid makes better sense." Mr. Wilson said, "You probably could require something with a lid on it; these are kind of open." Mr. Owens said, "Aesthetically, they are not very pleasing and there's a charge for that; that's up to the Board. They could do once a week or twice a week depending on the service they ask for." Public Works Director Bill Squires: "We don't pick up in the ones in the parking lot. You were requiring them to supply them and now you are asking us to supply." Mayor Blair said, "To his point, if we're going to have to deal with trash; there's already trashcans; it just makes sense to put something in there that will work. I don't care who supplies them as long as they're of a gauge and capacity to take care of the problem." Mr. Squires said, "Regardless, they're going to have to bring them to the street like any other trash customer."

Mr. Frank said, "I think there are overlapping issues here. I first want to note the proposed change to the conditional use permit here won't increase the level of traffic. In fact, it will decrease the level of traffic for beachgoers. While I'm not in any position to put my finger exactly on the source of the litter, it seems just as likely that the beachgoers are the source of the litter as the people who are utilizing the business." Mayor Blair said, "The purpose of this conditional use permit is to make sure we cover trash as a conditional use permit item; it's the property owner's responsibility." Mr. Frank said, "That's what I was getting at when I alluded to overlapping issues. The act of littering is against the Town ordinance and certainly the opportunity to enforce that Town ordinance is in place. It's not realistic for a private property owner to enforce that Town ordinance. It is realistic for a private property owner to accommodate conditions of the conditional use permit that may be designed to help deter littering. Providing trashcans, for example, and having those trashcans available for pickup on a routine schedule – is certainly realistic. It's also realistic for the Town to revisit its litter ordinance and impose greater penalties and the like or put greater energy towards enforcement of it if you were inclined to do so. But I think it's important that we talk about conditions that are fair to impose on a private landowner and enforcement of the littering ordinance isn't in that bucket." Mayor Blair said, "I don't think the litter ordinance would be any more unfair to you than it is for any of us. I think we're all under the same conditions because litter is litter."

Mr. Owens said, “We can either do it publicly and have the rollout containers like you’re suggesting as a condition – a public service; or make sure they’re very clear somehow that they’ve got to provide trashcans that are sufficient enough to handle the amount of trash – which is hard to define. Here’s the problem, if they get a three-day service for Monday, Wednesday and Friday – it’s going to be full on Sunday and they’re not going to dump them. I’d almost rather them do what they’re doing and do it right. I’d prefer that they handle their trash correctly and us not get involved because the minute we’re not there and it’s overflowing, we’re getting calls that it’s overflowing. If it’s a capacity issue, they need to order another trashcan.” Mayor Blair said, “That’s fine with me as long as we’re all sitting on this Board knowing that if it gets to be a problem, we’re going to deal with it. If we go to that lot and it starts piling up trash and it gets dirty with trash, they get a warning. The next time, we go revisit the conditional use permit. Is that the proper way to do that, Mr. Wessell?” Mr. Wessell replied, “You’re right.” Mr. Squires asked if we could require them to use Town trashcans as part of the conditional use permit? Mr. Wessell replied, “Yes; just like we require everybody in the Town to have a trashcan. They’re not unique in that respect. The only thing I would suggest if you’re not going to use the Town trashcans, let’s be clear on what kind of trashcans you’re requiring them to have and how many.” Mr. Squires said, “The way they do it now is they empty those containers into their dumpster; so, there’s no pickup specifically for the parking lot.” Alderman Miller said, “We could make them put out our trashcans or make them put something solid to go in their trashcan.” Mayor Blair asked if there was a preference. Alderman King said, “Let them dump the trashcans into their dumpster and if they don’t do it, then the warning and the penalty.” Mr. Frank replied, “We prefer to continue to handle the trash directly and get a heavier grade receptacle.” Mayor Blair said, “Equipment that would be comparable to the capacities and lid covers like we have in the Town? That’s going to be part of my requirement. Whatever you guys come up with the gauge, size and lids.” Mr. Owens said the conditional use permit could say “as directed by staff.”

Alderman Weeks said, “The Town has power washed the whole downtown area in the spring; but during the summer, I think it needs to be done once a month and there have been discussions of whether that’s our responsibility or the business owners that their patrons are contributing to the stench down there.” Mr. Owens said he would have concerns if somebody else was power washing Town sidewalks. Alderman Weeks said, “To me, condition five was more about landscaping, keeping the mulch going, trimming the bushes, and that sort of thing. Five has not been working. Buddy’s was once every two weeks and I just think downtown from Easter to Labor Day is a more weekly thing; and then maybe a monthly thing in the offseason or something to that effect.” Alderman Miller said, “Why don’t we just enforce the things we have on the books. We’ve got a litter ordinance and other ordinances. I don’t know why we just don’t take what we’ve got instead of adding another.” Alderman Weeks said, “In Buddy’s condition, we said ‘shall hire a landscaping company to provide inspection and service every two weeks from April through October and monthly from November to March.’ So, I’ll propose on condition five that we say ‘Tenant shall hire a landscaping company to provide inspection and service every week from April through October and monthly from November through March each year to maintain the appearance and cleanliness.’ I think this is something consistent that we can build on for future conditional use permits.”

Mayor Blair closed the public hearing at 6:30 p.m.

Mr. Wilson then reviewed the conditions: “Here are the recommended conditional use permit conditions. Basically, one is a new one we talked about for the signage for parking spaces. Number two is new. These other ones reflect the other parking lots we did – 22 North, Lager Heads – so these are consistent – three, four and five. Six is a part of all the rest of it. Seven, about the noise ordinance is a part of those. Eight is the same thing – we didn’t want any alcohol in the parking lots. Nine is consistent with the rest of those. This has a four-foot fence on the property. It talks about the parking lot attendant and then no vehicles shall be towed. And then we added one with the handicap spot; so that would be the last one – Number twelve.” Mayor Blair expressed the need to modify condition three.

Following a brief discussion regarding which parking space could be used for the handicap space, Mr. Owens said, “I would say one of the Charlie Grainger’s so you’ve got seven total for Charlie Grainger’s down this side.” Alderman Weeks made the motion to approve the conditional use permit for Robert’s parking lot with all of the conditions that were existing in the conditional use permit with the additional signage that the Planning Board recommended; the handicap designation of one of the parking spaces; the third condition adding that staff will direct on the parameters around the trashcan; and then the wording on number five to include Buddy’s with weekly service instead of bi-weekly. Mr. Wessell suggested adding that the parking lot be configured in a manner as shown in the 2009 parking map. Alderman Weeks amended her motion accordingly. Alderman Miller said, “The only thing you didn’t get is that, while we’re not telling them where to put the parking spaces, they more or less agreed to put parking spaces as we discussed on the right hand side in the first two.” Mayor Blair asked if that was what the applicant wanted to do – those seven on the side and two up front. Mr. Frank said, “That’s our intention. We’re comfortable with either you specifying or identifying and we’ll put the spaces in place.” Alderman Miller said, “If it’s their intention, we can leave it out.” The motion was then seconded by Alderman Miller and unanimously approved.

PUBLIC HEARING FOR CONSIDERATION OF A CONDITIONAL USE PERMIT APPLICATION FOR 32 NORTH LUMINA AVENUE TO OPERATE A STANDARD RESTAURANT BY THE NAME OF CHARLIE GRAINGER’S IN THE PORTION OF THE BUILDING FORMERLY OCCUPIED BY RITA’S ICE.

Mayor Blair administered the oath to those wishing to address the subject. He asked people to try to limit their comments to three to four minutes due to the number of people wishing to speak.

Mr. Wilson gave the following overview: “On June 27, 2016, our department did receive a conditional use permit application for 32 North Lumina Avenue. Mr. Blair Goodrich has been appointed as the authorized agent for the property owners, Jerry Lachman and Allan Middleton. Mr. Goodrich has also been appointed as the authorized agent for Charlie Grainger’s, the conditional use permit applicant. The applicants have applied for a conditional use permit to operate a Charlie Grainger’s franchise location within the existing building at 32 North Lumina. Restaurants are considered a conditional use in the C-1 Commercial District. The plans submitted by the applicant indicate that 350 square feet of space that is currently utilized by Robert’s Grocery would be converted for the use of Charlie Grainger’s. This would create approximately 990 square feet for the proposed restaurant. The applicant indicates that the restaurant would be open for lunch and dinner and the restaurant would close by 10:00 p.m. The applicant also indicates that

the restaurant would not serve alcohol. After reviewing the conditional use permit application, staff determined that Charlie Grainger's would not be eligible for a parking exception. Charlie Grainger's is considered a standard restaurant meaning that the business would be required to provide one parking space for each four persons as stated on the maximum posted occupancy placard plus one additional parking space for each two employees on the largest shift. For departmental review, we had no comments from the Police Department or the Fire Department; Public Works' comments would be that the grease trap would have to be approved by them. Trash would have to be either rollout carts or joined with Robert's for their trash removal. This is consistent with our CAMA Land Use Policy 9.1.A.5: Commercial Development – the Town will encourage commercial establishments providing basic goods and services to year-round residents and visitors. The Planning Board's recommendations for this project are based on the nine findings in consideration of the general requirements found in Section 155.4.5.4 (E). Planning staff supports the applicant's request for the conditional use permit for Charlie Grainger's at 32 North Lumina. Staff recommends that the following conditions be considered for the conditional use permit:"

- 1. If the property owner receives two or more citations for noise violations within a twelve-month period, the conditional use permit shall be subjected to review and possible revocation.*
- 2. The applicant must comply with all Town codes and ordinances.*
- 3. The applicant must obtain all necessary state and local permits.*
- 4. The applicant must comply with the orders and directives of the New Hanover County Fire Marshall.*
- 5. The applicant must comply with all provisions of the FEMA 50% Rule.*
- 6. Hours of operation should be limited to a closing time of 10:00 p.m. as requested by the applicant.*
- 7. All deliveries should be scheduled at times that will minimize impacts to the normal flow of pedestrian and vehicular traffic.*
- 8. In the event that the required parking is no longer available within Robert's parking lot, the applicant shall be required to either seek a parking exception or provide parking at an alternate location.*
- 9. The applicant and property owner shall be required to maintain the area in front of and alongside the building in a manner that is free of obstructions and that does not inhibit or disrupt the regular flow of pedestrian or vehicular traffic.*
- 10. No outdoor seating shall be permitted.*
- 11. Property owners and applicants shall sign an affidavit stating that the use would never be converted into a private club or that a private club ABC permit would be sought from the ABC Commission for this location.*

Alderman Weeks referenced condition seven and said, "I think we had some time conditions on that on Buddy's." Mr. Owens said we put 'all deliveries shall occur between 8:00 a.m. to 8:00 p.m.' on Buddy's. Mr. Wilson said, "We do not have a time period on condition seven; the question is, do we want to or just strike it?" Mr. Wilson completed his review of the proposed conditions and said, "At the Planning Board level, we talked about no sale of alcohol. After talking with the Town Manager and the Town Attorney, I added condition eleven with the same language that we used for 13 East Salisbury Street. On August 2nd, Planning Board members voted unanimously to forward a favorable recommendation to the Board of Aldermen for the conditional use permit for Charlie Grainger's Restaurant to be located at 32 North Lumina with the following conditions:

1) Applicant and Owner must sign an affidavit stating they will not serve alcohol; and 2) The Town has been asked to improve the location of “No Parking” signage on Birmingham Street. This is where we felt we could not do number one. Some of the concerns from neighbors were about trash and about improving signage on Birmingham Street – they were concerned about people turning onto Birmingham Street and then turning around in their parking lot. So, that would be a condition I’d like to add to that if this Board would like to do that. Staff recommends that the Board of Aldermen approve the conditional use permit for 32 North Lumina with the conditions I presented to you.” Mr. Owens said, “I don’t think improving signage on Birmingham should be a condition; I think what we’ll do is look at it and try to improve the signage. We did that on Oceanic by moving the signage closer to the roadway. The problem is that whole area is so congested and so close quarters, I’m not sure how effective it will be but we can do it. There’s no paid parking on that street and I think people turn down there looking for paid parking and have to turn around. If the Board is open to that, I’ll move forward on something like that next week.”

Alderman Weeks said, “There’s definitely a blind spot there. I think there used to be a mirror on that pole and it’s no longer there. Before, you could see a pedestrian coming in front of Charlie Grainger’s before you pull out. I know this is independent of their conditional use but I think, at the very least, the Town should....” Mr. Owens expressed concern with the legalities of placing a mirror there because, 1) it would be attached to a Duke power pole; and 2) what would happen if it’s not maintained and somebody gets hit by a car. He said he didn’t know who put it up to begin with. Mr. Wessell noted that staff could discuss that later because that was not part of this discussion. Mr. Owens said staff would look into that to see if there’s something we could do better. Alderman Weeks noted that the new restaurant would generate more pedestrian traffic.

Mr. Frank said, “I represent the applicant. I’m going to defer to Mr. Goodrich to make a presentation. I’d like to defer my opportunity to speak in response.” Mr. Goodrich, of Goodrich Architecture, P.A., said, “Basically, we’re coming in front of you asking you to approve an awesome place to eat. This is a local franchise that started here; this would be one of five that are underway trying to get going. We agreed to everything with the parking. We agree to everything – their handbook requires their employees to go and clean the area around the restaurant; so that would be a constant from the time they open until the time they close plus a little after. It’s a family-oriented establishment; no alcohol is being served. I know of no immediate thing in the future, that I know of, to serve alcohol at any of the Charlie Grainger’s. It’s hurricane ready; all equipment is on wheels and will be removed in case of a hurricane. We think this will be a great addition and great complement to Robert’s Grocery.” Mayor Blair asked if the design would be similar to the one on 17th Street. Mr. Goodrich said it would; they just toned it down a little. Mayor Blair asked if the applicants had any idea as to the percentage of food that would be consumed inside versus take away. Mr. Goodrich said there was no way to really calculate that because each location is different.

Mayor Blair asked if Mr. Frank wanted to be on standby to speak. Mr. Wessell said he thought he just wanted to speak at the end. Mr. Frank said that would be alright.

Mayor Blair opened the public hearing at 6:48 p.m.

Mr. Neal Briggi, 4-B West Henderson Street, said, “The issues for me deal with this becoming a source of serving alcohol; also the issue of trash going up the street and onto the beach. It is a take-out restaurant. I’m surprised that there wasn’t an answer to what the owners thought the capacity might be. You’ve got so many stools and you’ve got so many racks for making whatever you’re going to serve; so, you must have some expectations. There’s only a limited capacity for people to drive up, go in and buy and leave. High traffic and litter going down the street and onto the beach – I’ll leave it at that.”

Miss Nancy Faye Craig, 111 Seaside Lane, said, “My concerns are safety crossing the street, the blind spot coming out of Birmingham, noise, trash, and I’m sure Mr. Wessell will look at this again but on condition eleven, it seemed like it was missing a “not” when talking about applying for an ABC permit.”

Mr. Neil Hyman, 9 East Birmingham Street, said, “A lot of the stuff I was going to ask has already been covered; one was the alcohol. At the Planning Board meeting, Louis North, who is the franchisor had offered to sign an affidavit but I just wanted to make sure that the franchisee is going to be willing to sign because he will be responsible for that specific location. And the ten o’clock closing. One of the issues behind Robert’s in terms of the alleyway with trash – if this place is as successful as I think they hope it will be, there’s going to be a significant amount of trash in addition to what Robert’s already generates. Also, does the Town require recycling bins; that could be another added feature. The young lady that spoke earlier also – I’ve been to Charlie Grainger’s on 17th Street and had a great sandwich and a great big drink in a polystyrene cup. That will also be something that contributes to the trash that will accumulate on Birmingham Street and on North Lumina, in people’s yards, and at the beach. One of the other things that I also would like to request is if you guys can say by an affidavit that they won’t do delivery in terms of having cars like Dominos Pizza delivery because that would add nothing but more congestion behind the building. The handicap spaces were addressed, I had a serious question about that. Tony, you guys had mentioned one spot as a handicap space – it actually has to be one and a half for van accessible. And in terms of the size of that lot, I could be terribly wrong but I think for 28 or more spots, you have to have two handicap spots – that’s code. And the other thing I had a curious question about on the overhead from Mr. Goodrich showing the restaurant inside of Robert’s – it showed the front door; then it shows an open area going into Robert’s. It just seems odd to me. I know at the Planning Board meeting, they talked about garbage and how it would get to the back. They said they would go through Robert’s and go out the back door. Well, Robert’s closes at nine. To me, that’s an odd design feature that doesn’t seem to make sense. And I’m sure it’s a big problem for Robert’s. The other aspect of it is that I didn’t see a fire exit; I’m not sure what requirements that would be. The assumption would be that the fire exit would be at the rear of Robert’s because they won’t be able to get out the front doors. Just some questions I see from a design standpoint.”

Mr. Tim Taylor, 104 North Lumina Avenue, said, “People in the downtown district of Wrightsville Beach do not want a Charlie Grainger’s. We spoke last month about all the negatives and I was very surprised and disappointed the night after the Planning Board meeting, someone from Charlie Grainger’s posted something on Facebook saying how uninformed we were and we didn’t know anything about litter and the cleanliness of Charlie Grainger’s. We weren’t talking about the cleanliness of

Charlie Grainger's; we were talking about concerns of our Town. We don't need another fast food, takeout restaurant where everybody drops their cups, napkins and everything out in the street. It won't just affect the sidewalk there; it will affect all of the surrounding neighborhoods. When they came out and told us we weren't informed, they were the ones that weren't informed. I guarantee you none of them have come down here on Saturday or Sunday morning, walk our streets at eight o'clock and pick up bags of trash like all the neighbors do. When their business closes, they're not going to walk our neighborhoods and pick up the trash. The current business there – the art store causes no trash. He picks up trash and he recycles it. So, please pay attention to your constituents and your neighbors – we don't want Charlie Grainger's."

Ms. Nancy Norvell, property owner on Charlotte Street, said, "I absolutely love the Town and, like the two ladies who spoke at the beginning of the meeting, I am also very concerned about how the Town moves forward and what it becomes for future generations, as well as the trash and the care for our oceans and what ends up in them because of all the trash. I was not at the Planning Board meeting; I am not exactly sure how the Town goes about choosing the mix of businesses that show up in our already crowded downtown area. My primary concern is actually something a little bit different than all of these things which are also concerns to me. It is a chain restaurant; it's going to be serving the same type of food – hot dogs and sandwiches – that are available right next door and some of the other restaurants that have been one-of-a-kind little restaurants in Wrightsville Beach for years and years. I don't know how much seating is going to be in there. There is the trash; there is the litter; there are the pedestrians; there's the parking – there's all that. One of my bigger concerns is – I don't think a lot of people realize that this, in effect, will push out the Wrightsville Beach Art Company which depends on its little location. It's a very unique, one-of-a-kind local business that is very interesting and sort of has become part of Wrightsville Beach. It also gives back to the community. Jazz actually uses the trash he finds on the beach in his art. His workshop and classes teach children, not only about art, but about keeping the beach clean. I just think it would be sad to lose this kind of a business in our community. It's more the kind of thing that I think we need; we don't need more hot dogs and sandwiches and more litter and trash. That was just something that I wanted to make sure that the Board was aware of and ask for that consideration."

Mr. Paul Laughlin, resident, said, "I just wanted to support what the young lady just mentioned. Maybe I'll focus a little bit more on Jazz Undy's business. I have been an early evening weekend regular at Lager Heads right across the street for a number of years and have had the opportunity to watch the ebb and flow of culture in Wrightsville Beach through the seasons and through the years and I've been able to see what happens across the street, and it was a real treat when I saw Wrightsville Beach Art Company start up there. One of the things that's unique, as mentioned, is that he emphasizes not only art that celebrates our community, but also recycling, reusing, and re-arting as the sign says. His mission statement says, 'Saving the planet one painting at a time.' If you go to his Facebook page, he's not only displaying his art, he's also selling the concept of protecting our environment. I think it's a unique business; I think it's been a wonderful asset to our community; and it's a very low impact business. So, I'd hate to see him being pushed out. In terms of Charlie Grainger's, I have not been to a Charlie Grainger's before. In general, I hear good things; I hear that the food is good and that their facilities are clean. But I don't know

that we need one. That's a very busy corner; there's a very small adjacent residential street. The Trolley Stop has been around for forty-two years – and it's just two blocks away. There are the concerns that you've been hearing about trash and noise. And, to me, it's a very high impact business. So, it's almost like this whole issue is a catalyst for future conversations about 'do we have a strategic business plan for our business district?' Do we want to allow the dollar to rule what happens? Are we basically going to become a street of restaurants and bars or is there a way for the Aldermen to put together a plan such that we don't become so homogenized?"

Mr. Jerry Lacey, 10 Birmingham Street, said, "When I first got wind that this was going to be a consideration of a restaurant there, my concern immediately was congestion and safety. It's kind of a tight place there; it is very tight. It's basically a one-way street and coming out as we do now all day long, it is very difficult to get out there without being very cautious of people because as people walk by that corner, they don't really look at that as being a street; they kind of just walk by and walk right in it. So, when we live there, we're very cautious of that. But, we aren't the only people that come from down that street. There are a lot of people that come there not knowing that there isn't public parking and they have to turn around and come back. It's not a question of Charlie Grainger's; none of us have ever said anything against Charlie Grainger's. It's just any restaurant in that corner that's going to have a concentration of people; that's the wrong place to put a restaurant. And I would ask you to really take a serious look at that area because it is very congested and it's a safety issue of people walking, not only on the sidewalk, but people are now coming across the street from those parking locations. With the limited seating, I'm sure that location, although the gentleman didn't say they had a plan for it, is going to do a lot of carry-out. And as people carry that out, unlike some of the other restaurants at Wrightsville Beach that have outside seating, I don't know where they're going to go. I guess my question would be then, where do you expect them to eat. If they come around on Birmingham Street and sit down or try to eat it there, unlike Rita's – somehow Jazz kind of got left out of this picture because a lot of the discussion is – Rita's is not in there; Jazz is the only operation left. These people now have cups and food and they're going to have to find some place to sit down and eat. I guess a little concern of mine is that they're going to come up the street and litter Birmingham Street or go onto the beach. There are some things that could be done to help it. That mirror that we talked about would help. The Oceanic has a sign before you ever drive into it that says No Public Parking. We don't have that; ours is up the street. I would ask that you give that some serious consideration. All in all, the thing I would say most important is the safety aspect of this. They've already described themselves as a family restaurant; that means children; that means people that are going to be standing around that corner and that will increase the risk of hitting somebody. It is very easy for you not to be able to see people as they congregate around that corner. I'd just ask you for that consideration."

Ms. Adelaide Villmoare, 14 Birmingham Street, said, "I want to underscore what Jerry just said. It is a very dangerous intersection. I've been driving it for thirty-two years. The expectation is that there will be more foot traffic. It is very dangerous. And on the timing for delivery trucks, it's a blind intersection as it is and with daily delivery trucks in there, you won't just have to inch out and inch out. If you add more pedestrians to that; it becomes a much more dangerous mix. Another safety question is the fire exit; and that starts to become an issue."

Mr. Peter Stillman, 14 Birmingham Street, said, “Safety was what was just being talked about. One of the things that I’m sure you knew when you drove up to Birmingham Street to look at the area, is that there is no sidewalk on Birmingham Street; so when you come down Birmingham Street and stop at the thick white line, you see nothing to your right except the wall. When you pull into the sidewalk, you can then start to see pedestrians. If there is a delivery truck there, which there frequently is from eight to ten in the morning, you cannot see traffic coming from the right until you have put your car halfway out into the northbound lane. If there is a delivery truck in front of 22 North, you cannot see clearly the traffic coming from the south in the northbound lane, so it is risky to put your car out. It is a very dangerous intersection because of the way the streets are configured without a sidewalk and because of the way the delivery trucks occur. When we talked about this at the Planning Board, we thought it was very important to try to cut down on when delivery trucks are going to be there. I think that is something that is very important, even if you approve this. That won’t help safety at nine thirty in the morning when there will be delivery trucks in both directions and you can’t see. The other thing we talked about that was important was signage; in fact, I think signage will turn out to be a very difficult issue because you don’t want people coming up Birmingham Street thinking that they can park, but the reason the sign is already up twenty yards or so is because of 22 North’s parking lot where people, in fact, can come up and park. By the time they see there is no public parking on Birmingham Street, they have no place to turn around. If you live at 14 Birmingham Street, you get to watch a lot of people trying to turn around in the driveways of 13 and 15, which are very steeply sloped driveways; so that’s a difficult kind of turnaround anyway. I think safety is a real issue. And I think that what other people have been saying about the kind of vision of what Wrightsville Beach should be like is also another important issue.”

Mr. Scott Griffin, 64 Pelican Drive, said, “I’m not associated with Charlie Grainger’s; I ate there several months ago and had a great time and have since been back and I took interest in the conversation. We are all blessed to live in a country where we’re all given an opportunity to wake up in the mornings and take a risk and succeed, and sometimes fail. In those days that we have our failure, we can go to bed at night knowing we gave it our very best and, in America, you can get up and do the same thing tomorrow. That’s what our free enterprise system is all about and I think that’s what defines America. I think Charlie Grainger’s would be a wonderful neighbor. You can look at their Facebook ratings; they’ve got five stars and as of last night, there were 102 folks that have commented. How many restaurants have five stars on their user websites? That’s pretty substantial, and I think that speaks to the kind of neighbor that Charlie Grainger’s would be to Wrightsville Beach. I think Wrightsville Beach should want to attract a neighbor like Charlie Grainger’s. Keeping in the same mind, I’m not in the direct neighborhood where Charlie Grainger’s is looking to go. Around 2004, they called it the ‘Ms. Trask handicap spot’; there was a handicap spot right in front of Robert’s. Asking around, it appears that maybe one of the parking vendors had changed that parking spot from being designated handicap to service Robert’s Grocery for quite a number of years, to a delivery zone; then it morphed into a taxi pickup station. So, I think that’s interesting when we talk about taking what is already an asset of a parking lot across the street and being a necessity of mandating that that needs to have a handicap spot when there was one there, historically, for a

building that has been there a long time. And I think the landlord's willingness to, without question, go along with the Town's requests speaks to what kind of neighbor they're going to be. The trash – I feel firmly that trash is a Town and a policing issue. Possibly the Police Chief could come up and comment on how many citations have been written. Is there an opportunity there? There was some talk at the Planning Board meeting about a MOU between the Town and some of those businesses down there to address trash. A public-private partnership is something that I think both bodies can take a lot of pride in and that certainly builds community and that's something we're all interested in as a small family community here. With relation to the Town and its stance on the central business district and the limited business zones that are out there, the Town has a very clear black and white position on the value of its commercial real estate on this beach. That being said, I think the Town should want to work cooperatively, and I think the Town has, with individuals that want to invest in our community and keep it family oriented like Wrightsville Beach is known for. I think that's very important and I think Charlie Grainger's is a wonderful opportunity to fit that mold. The Board, while I can certainly be sympathetic to a business that quite possibly could be displaced, that, again, is a product of simply the free market system and I don't think the Board is in a position or should be to pick winners and losers in private sector business. I think if it fits the mold and it fits the box, and this does, I think it's a yes and I think Charlie Grainger's is a yes. As far as conditions and some of those type things; I'm supportive of everything that's been talked about here. I think it's interesting the conversation has morphed into something that's more of a conversation between a tenant and a private landowner that really doesn't involve anyone in this room. And I don't want to lose sight of that but I certainly can be sympathetic to the property owner. We all have assets and we want to manage them to the highest and best use as long as it fits in the mold and requirements of our Town or whatever that may be. I would hate to think that the Town would want to get in the position of passing an ordinance that designated that a private landowner or a private homeowner on Wrightsville Beach could not rent their home by the week to a family that happened to have young kids because they might be skateboarding out front in the neighborhood. I think Charlie Grainger's has stepped up and done everything that anybody has asked. I think they'd be a wonderful neighbor. I don't have any relationship with them; I'm not paid by them. I'm just a guy that lives on the beach and took some interest in it. For the sake of time, I'll leave it up to you all but I've got some very interesting information on some dredging dollars that I can share with you now or at a later time."

Mr. Frank said, "I'd like to respond briefly on behalf of the applicant to several of the issues that were raised. There's a very discreet question before the Board tonight and that's whether or not to grant this conditional use permit based on the factors outlined that you consider to decide this thing. Many of the issues presented to you tonight are unrelated to those factors; unrelated to that discreet issue. Some of the issues that were presented to you have already been addressed by conditions worked out between the applicant and staff and I won't belabor them. The roads are public, beach access is public, and the sidewalks are public; people are free to use those from the public and you, as the Town, agreed to police the use of those as you see fit. It's well beyond the scope of the Town's authority to dictate who a landlord can rent to and who they cannot. And, of course, it's well beyond the Town's authority to try to protect the existing businesses from potential competitors as Mr. Griffin alluded

to in his presentation – those are free market issues that should be left to the free market. The concept that a business should be held accountable for the illegal actions of its customers after those customers leave the business is an awfully slippery slope. I get it that trash is a problem on the beach; I live on the beach; I see that. I deal with it and pick up after other people on a regular basis and I don't like it any more than anybody else does. But, to attempt to hold a business accountable for what its customers do after they leave its premises, especially on a speculative basis as we're talking about doing here, strikes me as a very slippery slope and I encourage you to tread with caution on that topic and be careful about what you reasonably ask a business to do to deal with that potential problem."

Mr. Stillman said, "I thought when the Planning Board meeting was held, one of the things that had been agreed to by the Planning Board was that, if this is approved, the doorway to Charlie Grainger's be as far from Birmingham Street as the interior of the store would allow. Does that fit your memory? I'm trying to be neutral; I'm not trying to raise an objection. I thought there had been an attempt to address that." Mr. Wilson said, "I think that was discussed; I think Mr. Goodrich addressed it. I don't know if that's an issue or not." Mr. Goodrich said, "No, it's not an issue. We can move that door over. And to address the emergency exits based off of current codes, it's only required to have one exit. Robert's Grocery will not be altered in any way as far as their exits are concerned. We have agreed to sign affidavits about the alcohol. We did discuss the door and it wouldn't be a problem to move that. And the other thing was, Robert's does close at nine but they do agree to stay open until ten o'clock, if Charlie Grainger's stays open until ten." When asked about the door that Mr. Stillman was referring to, Mr. Goodrich said, "The door can probably be moved over one more bay; we don't want to get into the handicap seating."

With no further comment from the public, Mayor Blair closed the public hearing at 7:20 p.m.

Alderman Miller asked about the concerns that Miss Nancy Faye Craig had about the wording of condition eleven. Mr. Wessell said he had made a note to check that and he would make the appropriate changes.

Mayor Pro Tem Mills said, "I think Mr. Frank and Scott (Griffin) raised an issue that we need to all be clear on and that is, we cannot interfere with a relationship between a landlord and a tenant; that's way beyond the purview of this Board. I'm not unsympathetic to your feelings towards the art shop and what's going on there; I get that that's low impact and you would love to have him as a neighbor but that's between the landlord and that business. We can't get involved with that. The safety issues are a real concern and we need to think carefully about it. Although, you can argue that beachgoers are crossing that street if they're parking there, if Charlie Grainger's is not there, then they're walking all the way down to the Trolley Stop – so they're crossing more streets. My point being, you can argue the safety thing backwards and forwards; Birmingham is unique. I have stayed on Birmingham; I know the situation there; it is unique. And I will tell you that for several years now, I have had a real problem with delivery trucks – period; not just at Birmingham but to all those businesses. I have talked with several of those people about trying to come up with a system. When those delivery trucks are there, it's hard for a car to get through; it's hard for pedestrians to get across. That said, Charlie Grainger's is, to me, the kind

of business that the beach should be looking at because it is family oriented and there is no alcohol – that’s a big concern for me. We’ve got plenty of alcohol serving places down there. What the landlord chooses to do with their tenants is between the landlord and the tenant. The space is going to be available; we don’t control that. But we do need to address these safety issues; these folks have raised legitimate concerns and none of us want to be a part of any decision that’s going to create a more dangerous situation that can possibly be avoided. I get the comment about putting a mirror up on Duke Energy’s power pole – we need to take a hard look at that.”

Alderman Miller said, “I agree with Mayor Pro Tem Mills. Regarding the safety issues – we tried and we need to try again with the MPO. It’s not about Robert’s and Charlie Grainger’s and that parking lot; it’s the whole downtown. We talked to the MPO about moving the crosswalk to where the Neptune is; I think we need to revisit that. That’s an issue that we need to bring back to the MPO.”

Mayor Blair said, “I would agree with Mr. Mills that Charlie Grainger’s, as a restaurant, is a permitted use down there but we need to look at all of the issues that were raised. The trash issue continues to be a problem on this beach all the time; everywhere. It’s not limited to downtown. Buck Squires and his guys do a pretty phenomenal job dragging the stuff off the beach. I wish we were worried about just the trash that maybe a new restaurant brings; it’s a battle and it’s a war and we have a lot of resources committed to it. I don’t know if we’re winning the war or not, but we’re putting a pretty good lick on it. So, we have to be cognizant. When Rita’s was there, I don’t remember hearing a lot of trash problems. We have to hold Charlie Grainger’s to it that they’re going to do as good a job as they can do and if they don’t, I think it’s up to the Board to come back on their conditional use permit. But, I think we’ve got to give folks a chance to run their business and not interfere. It’s not our job to go tell people what they can put in their businesses if they’re permitted uses. Our job is to try to put conditions on it for public safety, trash and all the items we talked about and I think, based on the Planning Board and what we’ve done, I think we’re trying to put as good a lid on that as we can possibly do. The alcohol issue is something new that we’ve done in the last year. We hope that has a pretty big impact. As far as the employees and the other issues, that continues to be a problem also. So, Charlie Grainger’s has some trash issues. I don’t see it being the noise/bar kind of problem that we’ve had in the past. We do need to probably look at Birmingham Street and try to make that as accessible and safe as we can; some signage would probably help. The mirror thing – maybe that’s not the only answer but there are probably ways to make that better. Delivery trucks – anything until 8:00 p.m. – I don’t know who came up with that but if you ride a bike down there – that street is awful. I don’t know that Charlie Grainger’s would have hot dogs at eight o’clock in the morning but those delivery trucks are a problem. I don’t know how we do that. We’re having a meeting with all of the downtown folks with Ms. Bulluck; maybe that’s an issue we can raise in that meeting. That’s the right venue to talk to those guys about this. Displacing the art guy – I get it. I think we’re all sort of positive on those kinds of things. We would like to see more things like that on this beach. But again, we’d like to see more stuff but we can’t tell people what to do with their property.”

Alderman Weeks said, “I agree with everything that’s been said. It’s not our position to dictate what kind of business that Jerry Allen can put in their spot, but I think

we can certainly enforce and do a better job of making sure that area is clean for the neighborhood. I think we need to all do better in making sure things are enforced a little better. I have seen the trashcan by the ice cream stand next to Red Dogs be overflowing with trash a lot. It's the Town's trashcan. I noticed there's one there but if we're going to move that front door, at the very least, if we can add another one on the corner, I think that would help to have two outdoor trashcans, but we'll have to keep an eye on how frequently those are filled and keep them emptied."

Alderman King said, "I'm in total agreement with everything that's been said. About the trash – I get it because every morning I'm picking up trash in my yard from somebody walking home at night. So, I understand that and I know it's enough to drive you crazy. Is there a trashcan at the end of the street before you go onto the beach?" Mr. Squires said there was one at the end of every street end. Some of the residents stated that there was not a trashcan at the end of Birmingham Street – it was on the beach side. Alderman King expressed the need for the Town to do a better job of policing the trash. She suggested placing a trashcan at the end of that street to see if it would help. A brief discussion followed regarding the low number of litter citations being issued because the police officers have to see the people as they litter.

Mr. Stillman said, "On Birmingham Street, since there aren't any trashcans, you can't do anything with your paper, etc. There would be no trashcan from the door of Charlie Grainger's to the trashcan that's on the beach. Charlie Grainger's hasn't even proposed, for instance, putting in a trashcan at the back of Charlie Grainger's; and nobody's talked about putting a trashcan at the end of Birmingham rather than the beach side of Birmingham so that people who are walking up, even if they have good intentions, frequently can't find a place to put their trash. I was thinking one place might be at the end of Charlie Grainger's and Robert's. I don't know if there's enough room there." Mr. Owens said, "There is a dumpster on the backside. If the applicant wants to put a public trashcan beside that dumpster; I think they could certainly do that." Mr. Squires said, "The reason the cans are on the beach side of the access is because they're easier to pick up that way. We would have to walk up the beach access and grab the can and take it back out on the beach to dump it or drive up and down Birmingham Street." Alderman King expressed concern that they wouldn't be able to drive down Birmingham Street.

Mayor Blair asked Mr. Frank if they would be okay with putting a can behind their dumpster in the back. Mr. Frank replied, "On our property; land that we can control; yes." Alderman Miller said, "Like the ones you're doing across the street?" Mr. Frank replied, "Yes, we can do that as a reasonable accommodation." Alderman King said, "I think if we work with the issues, then I think it's a good thing."

Mr. Wilson asked if condition seven about the deliveries had been taken out. Mayor Blair said, "I think we need to deal with that with the business owners because we can't effect anything here unless we go sit down with those guys." Mr. Wilson said, "So, we'll take number seven out. And we mentioned about moving the door to the north." Alderman Miller referenced condition eleven and said Miss Craig was right; instead of 'would be sought,' it should be 'would not be sought'. Mr. Wessell said he would make that change. Mayor Blair noted the condition to place a trashcan by the dumpster in the rear of the building, similar to the trashcans being placed across the street. He then asked what other things had been talked about.

Mr. Owens replied, “Everything else is the Town’s. We’ll look at the mirror and whether we can do that; we’ll look at putting signage up near the street; and I will contact the MPO to give us some advice on the whole entire crosswalk area.”

Mr. Neal Hyman said, “One thing that did come up at the Planning Board meeting was being able to see where to park in that parking lot and I think they mentioned the possibility of putting signage on the side of Charlie Grainger’s so people knew where to park.” Mr. Wilson said that may not meet the Town’s sign ordinance. Mr. Owens said, “That sounds like directional signage; it’s not advertising so it could say ‘parking for Charlie Grainger’s across the street’ or something to that effect.” Mr. Frank said, “If you need our permission to utilize part of the side of our building for public signage, we’d certainly entertain that. We’re ready, willing and able to work with Tony on that.” Mayor Blair noted that staff would also look at the sign ordinance to see if it needed to be amended. Alderman Weeks asked if it would be helpful if delivery trucks just stayed on the Lager Head side of the street. Alderman Miller stated that the Board couldn’t do that just for them. Mr. Owens said that was a Town-wide thing that needed to be decided. Mayor Blair said he would bring it up in the meeting with the business owners.

Mayor Pro Tem Mills said, “If that’s all the conditions, I move to approve subject to these conditions.” The motion was seconded by Alderman Miller. Mayor Blair said, “I’ve got a motion and a second to approve with conditions and the adds.” The vote was then taken and recorded as unanimous in favor of approval of the conditional use permit subject to the following amended conditions:

1. If the property owner receives two or more citations for noise violations within a twelve-month period, the Conditional Use Permit shall be subjected to review and possible revocation.
2. The applicants must comply with all Town Codes and Ordinances.
3. The applicants must obtain all necessary state and local permits.
4. The applicants must comply with the orders and directives of the New Hanover County Fire Marshall.
5. The applicants must comply with all provisions of the FEMA 50% Rule.
6. Hours of operation should be limited to a closing time of 10:00 p.m. as requested by the applicant.
7. ~~All deliveries should be scheduled at times that will minimize impacts to the normal flow of pedestrian and vehicular traffic. (Deleted – the Town will deal with that with the business owners.)~~
8. In the event that the required parking is no longer available within Robert’s parking lot, the applicants shall be required to either seek a parking exception or to provide parking at an alternate location.
9. The applicants shall be required to maintain the area in front of and alongside the building in a manner that is free of obstructions and that does not inhibit or disrupt the regular flow of pedestrian or vehicular traffic.
10. No outdoor seating shall be permitted.

11. Property owners and applicants shall sign an affidavit stating that the use would never be converted into a private club or that a private club ABC permit would *never* be sought from the ABC Commission for this location. (Added the word 'never')
12. The doorway to Charlie Grainger's shall be moved one bay to the north so as to be as far away from Birmingham Street as the store will allow. (Added)
13. A trashcan will be placed by the dumpster in the rear of the building for public use. The trashcan shall be similar to the trashcans being placed in the parking lot across the street. (Added)

MEETING RECESSED AT 7:40 P.M. AND RECONVENED AT 7:45 P.M.

DISCUSSION AND UPDATE REGARDING A TRIAL PROGRAM TO DETERMINE THE EFFECTIVENESS OF USING AN UNMANNED AERIAL VEHICLE (UAV) FOR EMERGENCY RESPONSE.

Firefighter Sam Profit said, "DJI International provided two UAVs (drones) to conduct a research project; one is coming to the Wrightsville Beach Fire Department and the other one will go to New Hanover County Emergency Management. The idea behind this is to understand the effectiveness of UAVs or drones in public safety. I will be conducting the research project in coordination with the Pennsylvania State University to find data on this. The study will conclude roughly next Labor Day." Mr. Profit displayed the sample drone and said he would be working side by side with the FAA. Mr. Owens said, "Sam also works for Ocean Rescue so we see a cross use for this for things like a lost swimmer or a lost kayak; it would also allow you to assess a situation to determine how many resources you need to apply to the incident; you'd also be able to fly above a fire for a better assessment than you'd have standing on the scene at eye level. We will use this for emergency incidents and we'll do some training but it's not something that we're going to have out there every day. It will just be a legitimate use for the UAV." Mr. Profit then introduced Mr. Arthur, a pilot who would be the Town's liaison with the FAA.

Mayor Blair said the general feedback on drones at Wrightsville Beach was not good. He said, "I get the safety aspect and all the uses that might do some good, but I don't want to see drones going up and down the beach on Saturdays and Sundays just filming random things. I don't see the value of that. I want to make sure if we go down this path, this isn't a plaything; it's a legitimate tool." Mr. Profit explained that it would probably be placed in one of the Captain's vehicles and it would only be tied to a call unless they were working with the County on ways to make events like Beach to Battleship safer. Mayor Blair said he didn't think a drone should be used to find kids that had gotten away from their parents on the beach. He asked if this drone could record in real time. Mr. Profit said, "At this time, we're not planning to use any type of recording or picture; we're using it for immediate visibility. It will be transmitted from the camera on the bottom to the ipad here. When asked if it would be using wifi, Mr. Arthur replied, "Yes; it is 2.4 to 2.483 gigahertz (wifi frequencies). The range will be about 2.1 miles." Mr. Owens said, "It's my understanding that the FAA just lifted some of the restrictions that would basically prohibit municipalities and emergency services from doing this and that's what allows us to do this." Mr. Arthur said, "There are two paths to approach what we want to do; one is a certificate of authorization which has been in place for several years but there were a lot of loopholes to jump through. This

project that Sam has brought before us has a \$1000-\$1500 drone for free. The other path that the FAA calls Part 107 went into effect on August 29th. Two different paths and we can do basically the same thing with each path. Currently, we can fly the drone under Part 107; we have the pieces in place to do that. We will be working and will continue to work for a certificate of authorization. We have just gotten back the approval to get a user name and password to get online so we can get our certificate of authorization. At that point, we'll be able to certify our own pilots. We can fly up to and including 400 feet over the beach. When we get the certificate of authorization in place, we'll have a whole lot more flexibility." There was Board consensus to proceed.

DISCUSSION AND DIRECTION ON MOVING FORWARD WITH THE DESIGN OF STREET-SIDE PARKING AT THE END OF NORTH LUMINA AVENUE.

Mr. Owens said, "We looked at two different parking projects and SEPI Engineering was going to do a phased approach to looking at these types of projects. We can get close to fifty parking spaces at the extreme north end of North Lumina Avenue." Mr. Owens then reviewed things to be considered if the Board wanted to move forward: 1) whether to hold a public hearing to receive input on the project; 2) the current zoning in the area would have to be amended to allow for grading and clearing in the P-1 Conservation District for a public parking area. Another amendment would be to allow for a public parking area to be constructed in the P1 Conservation District and in the G-1 Public and Semi-Public District; 3) the project will have to be designed and permitted; and 4) the Town will have to request that the State transfer the existing North Lumina right of way over to the Town from Access #2 northward. Mr. Owens said, "It's a phased project; there's no rush to do this. The draft design is in front of you. I also want to look at sort of an angled parking as opposed to a pull-in 90-degree parking. I think this is a feasible project; I think the payback on it would be probably a-year-to-two-years maximum. I just need direction as to whether you want to proceed with this; do you want to start with a public hearing first or do we want to go straight into the design and engineering?" Mayor Blair expressed the need to make sure this can actually be done before scheduling a public hearing. He suggested pursuing the permits and get all of that stuff out of the way up to the point where we know we can do it and then have a public hearing at that point. The Board concurred. Mr. Owens said he would come back with a budget adjustment to make sure there are enough funds to do that. Alderman Weeks noted the need to include an additional lifeguard stand in future discussions.

REVIEW OF FINAL DESIGN TO ADD ADDITIONAL PARKING ON OLD CAUSEWAY DRIVE AND SEEKING QUOTES FOR CONSTRUCTION.

Mr. Owens said, "We talked about doing a phased process; this is on Old Causeway Drive. Currently there are 15 parallel parking spaces in there; this would be a net increase of 24 parking spaces. If the Board would like, we can move forward with three informal quotes just to see what the price would be and bring that back to the Board for consideration." Mayor Blair said, "Can we move forward with doing quotes but also kind of ascertain if we actually think that, given the current status of the parking revenue generated on Old Causeway, and kind of get a feel for what the demand might be?" Mr. Owens said he would ask the Parking Office to do that. There was Board consensus to proceed.

UPDATE ON THE PROGRESS OF EVALUATING THE TOWN'S OLD LANDFILL SITE.

Mr. Owens said, "We have gone through two studies that the State has paid for to assess whether there are some issues out there but it doesn't appear that there are any big issues out there. Recently, they came back with a set of bullet points that they wanted us to do and one of those was to establish any wetlands out there. Good news, there weren't very many wetlands out there and they were all confined to one corner. The next part of this will be the other bullet points that we haven't done and that should be all of the information that we need, hopefully, that the State will require to decide how we can move forward or if we want to move forward. Tonight, I'm asking you to consider Budget Ordinance No. (2016) 435-B in the amount of \$11,000 for the wetland delineation and surveying of the wetlands and also to approve Resolution No. (2016) 1995 exempting the Town from any survey work under \$50,000 and any engineering work under \$50,000 associated with the remainder of this project." Alderman Miller made the motion to adopt Budget Ordinance No. (2016) 435-B and Resolution No. (2016) 1995. The motion was seconded by Mayor Pro Tem Mills and unanimously approved.

DISCUSSION OF CREATING A STEERING COMMITTEE FOR THE CAMA LAND USE PLAN UPDATE.

Mr. Wilson said, "On August 11, 2016, the Board of Aldermen gave direction for the Planning Board to talk about the makeup of the Land Use Plan Steering Committee. On September 6, 2016, there were three Planning Board members that volunteered for the committee – David Culp, Susan Snider and Jim Smith. The Planning Board also recommended a total of eleven (11) members and suggested that the Board of Aldermen accept applications from other interested individuals." Mr. Owens said, "I think we should use the application process; we should advertise for applications and bring those back to the next meeting for this Board to appoint members." When Alderman Miller asked if the Planning Board members wanting to serve would have to apply as well, Mr. Owens said he thought they should. He asked if the Board wanted to have eleven (11) members on that committee. Mr. Wilson noted that we had 12 members on the last steering committee in 2005. He suggested having nine (9) members. Alderman Weeks said, "So, three Planning Board; two Board of Aldermen; and then four at large – is that what it would be?" Mayor Blair asked if it needed to be designated before we see how the applications come in. Mr. Owens said they could just take applications for the committee and then determine the makeup. Mayor Blair asked if we intended to use the land use plan process to try to cure any of the other stuff. Mr. Owens said it was any policy-driven stuff the Board wants to look at. He said since it was an update, we would look at our existing policies to see if we want to modify any of those or come up with any new ones. Mayor Blair expressed the need to come up with a clear scope for the committee. Mr. Wessell said they would need to include the scope in the ad for applications. Mr. Wilson noted that we are short on time. Mr. Owens said he would ask Mr. Wilson to draft something and send it out to the Board for their input. Alderman Miller said, "I'd be willing to move that we do nine (9) and something that Mr. Wessell approves as far as advertising." Mr. Owens said he would like to bring everything back in October and hire somebody to do the land use plan and appoint the committee. Following a brief discussion regarding the funding, there was Board consensus to direct the Manager to proceed accordingly.

ALDERMAN WEEKS: REPORTS AND COMMENTS.

- Taste of Wrightsville Beach is scheduled for October 8th from 5:00 to 8:00 p.m. at Marine Max. There will be forty vendors this year. Town employees get a discount - \$25 instead of \$75.

ALDERMAN MILLER: REPORTS AND COMMENTS.

- The MPO has a closed session meeting next Wednesday about the lawsuit and I will report back to the Board.

MAYOR PRO TEM MILLS: REPORTS AND COMMENTS.

- Birth Announcement: "I am now a grandfather for the first time. He's doing great and so is my daughter. So, we're very blessed."

MR. OWENS: REPORTS AND COMMENTS.

- Update: The valve exercising project started Wednesday; they're doing about fifty per day.
- Update: We met with McKim and Creed again and went over our scope of work and they're moving forward with that, too. Basically that's a six-month timeline.

REQUEST FOR CLOSED SESSION FOR ADVICE FROM THE TOWN ATTORNEY PURSUANT TO G.S. 143.318.11.

Alderman Miller made the motion to go into Closed Session at 8:10 p.m. for advice from the Town Attorney pursuant to G.S. 143.318.11. The motion was seconded by Alderman Weeks and unanimously approved.

MEETING RECONVENED.

Mayor Blair reconvened the meeting at 8:24 p.m. and asked the record to reflect that the Closed Session had been held for the reason so stated with no action taken.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 8:24 P.M.

Respectfully submitted,

Sylvia J. Holleman
Town Clerk