



TOWN OF SURF CITY

SEPTEMBER 17, 2021, WORK SESSION

AGENDA

Agenda

9:00 AM / Friday, September 17, 2021

Surf City Municipal Complex, 214 W. Florence Way

Watch Virtually: www.youtube.com/townofsurfcity

Call to Order

Douglas C. Medlin, Mayor

Invocation & Pledge

Introductions & Welcome

Approval of Agenda

Town Council Work Plan Items:

1. Fire Study Presentation – Chief Wilson
2. Ordinance Amendment No. 15 – Conditional Re-Zoning Section 4.1.18
3. Ordinance Amendment No. 16 – Food Trucks Sec. 10-238
4. Land Dedication – Tropical Winds
5. Eisenhower Easement Request Discussion



Town of Surf City

Douglas C. Medlin, Mayor
William J. (Buddy) Fowler, Mayor Pro-Tem
Dwight Torres, Councilman

Donald R. Helms, Councilman
Teresa B. Batts, Councilwoman
Jeremy Shugarts, Councilman

To: Council
From: Amy Kimes
Date: September 17, 2021
Subject: Ordinance Amendment – Conditional Rezoning

SUMMARY

As the Town of Surf City continues to grow, development opportunities that are not clearly defined in the Town's Ordinances arise. This often leads to staff, Planning Board, and Council working to determine the best fit in an existing set of parameters. In recent years, municipalities across the state have begun using conditional rezoning as a tool to help allow unique development while continuing to uphold the spirit of the Town Ordinances. This tool allows the Planning Board and Council to approve a rezoning based on a site plan. Though the site plan is not a final engineered plan it has enough general information to create the outline for the proposed project. If this project does not move forward in a set amount of time, the Town will then revert to the original zoning or change to a more appropriate zoning.

In our business-oriented zonings such as C3, MU, NB, and O & I, all allowed uses may not be best suited for the surrounding area. C3 allows for gas stations and big box stores as well as salons/barber shops. Though it may not be appropriate to place a gas station adjacent to a residential district a standalone beauty salon may be appropriate. This tool would allow the Town to permit the salon without opening the opportunity for more intense uses in the future. This tool also allows the Town and the developer to work together to eliminate potential areas of concern by discussing the site plan as a part of the approval.

Provided in your packet is a text amendment to allow for conditional rezoning.

ACTION REQUESTED:

Approval of the revised ordinance as submitted.

4.1.18 Conditional Rezoning. A conditional zoning district (aka "CZ") is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or special use, accompanied by a plan showing proof of concept and typically including the spatial relation of uses and site elements.

1) Application requirements

a) Except as provided herein, all applications to establish a conditional zoning district shall adhere to the regulations and procedures prescribed in this subsection in addition to the standard general use district rezoning process as described in this Section.

b) Contents of Application – at a minimum, the following (and a description) shall be required for a conditional zoning district to be considered:

i) A list of all uses proposed for the district, which shall be of equal descriptiveness and in the same format and description as listed in the Table of Permitted Uses from this Ordinance.

ii) A list of all setbacks and dimensional standards for every proposed use, which shall be of equal descriptiveness and in the same format and description as listed in the Zoning District Dimensional Requirements, from this Ordinance.

iii) A sketch plan drawn to a suitable scale, with supporting information and text which specifies the location of the use or uses intended for the property and any development or dimensional standards to be approved as part of the establishment of the conditional rezoning district.

iv) The sketch plan shall include the following items:

a. Delineation of all Areas of Environmental Concern including but not limited to federal and/or state jurisdictional Wetlands and floodplains.

b. For residential uses, the number of units, heights and a generalized location.

c. For non-residential uses, the height, approximate footprint and location of all structures.

d. Traffic generation calculations and/or Traffic Impact Analysis if required by this Ordinance, parking and circulation plans illustrating dimensions, intersections, and typical cross sections

e. All proposed setbacks, buffers, screening and landscaping

f. Phasing

g. Signage

h. Outdoor lighting

i. Current zoning district designation and current land use status

j. Other information deemed necessary by the Administrator, Planning Board, or Town Council, including but not limited to additional technical reports

c) Public Input Meeting

i) Prior to scheduling a public hearing on the rezoning application, the applicant must conduct one public input meeting and file a report of the results with the Administrator

3) Review Approval Criteria for Conditional Rezoning

a) When evaluating an application for the establishment of a conditional zoning district, the reviewing bodies shall consider the following:

i) That the application meets the intent of a conditional rezoning, per this subsection.

ii) That the contents of the application are complete, sufficient, and recorded appropriately either as conditions of approval or on the associated site plan or preliminary plat, and that the appropriate procedures have been followed.

iii) The potential impacts and/or benefits on the surrounding area and adjoining properties.

iv) The report of results from the public input meeting.

v) That sufficient guarantee is in place or can be made that any off-site impacts generated by the proposed project shall be mitigated appropriately at the time the need for the mitigating action is generated.

4) Conditions to Approval of Petition

a) In approving a petition for the reclassification of property to a conditional zoning district, the Administrator or the Planning Board may recommend, and the Town Council request that the applicant add reasonable and appropriate conditions to the approval of the petition. If the applicant and the Town Council do not both explicitly accept these conditions, then the Town Council shall deny the conditional rezoning request.

b) Any such conditions should relate to the relationship of the proposed use(s) and design to the impact on Town services and capital plans adopted, surrounding properties and population, proposed support or accessory facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of or access to open space, and other matters that the participants in the public input meeting, staff, Planning Board, and Town Council find appropriate, or that the petitioner may propose. Such conditions to approval of the petition may include, but are not necessarily limited to, right-of-way dedication to the state or Town, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed

development.

c) The petitioner shall consider and respond to any such conditions after the Planning Board meeting at least three (3) days prior to the staff report for the Town Council being published. If the applicant does not agree with the Planning Board or staff's recommendations of additional conditions, the applicant shall provide written evidence or opinion to support their objection.

d) If for any reason any condition for approval is found to be illegal or invalid or if the applicant or subsequent owner should fail to accept or fulfill any condition following approval, the approval of any site plan or preliminary plat for the district and the conditional rezoning shall be null and void and of no effect and proceedings shall be instituted by the Administrator to rezone the property to a context-appropriate general use district zoning classification. The administrator will use appropriate judgement when recommending which properties (developed, undeveloped, vacant, half-built, existing non-conformities, etc.) be reassigned to which general use zoning districts. The rezoning may result in the creation of nonconformities, which shall be the responsibility of the property owner to rectify at such time as required by Section 7, Nonconforming Situations

5) Effect of Approval

a) Once a conditional rezoning is approved, the development and use of the property shall be governed by the established standards for the district, the approved sketch plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

b) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the district designation "CZ" and a unique, consecutive numerical identifier (for example, the fifteenth conditional zoning district established in the town would be labeled "CZ15"). The unique identifier number will reference the approved ordinance and sketch plan that established the zoning district.

c) Since each CZ district represents a newly created zoning district, the approved sketch plan and district standards and conditions shall be maintained as an adopted appendix to this Ordinance.

d) The approved sketch plan, may substitute for an approved master development plan if it is explicitly reviewed and approved as such during the petition for the CZ district.

e) No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and site plan or preliminary plat (as appropriate) for the district.

f) Any violation of the approved site plan or any rules, regulations and conditions for the district shall be treated the same as any other violation of this Section and shall be subject to the same remedies and penalties as any such violation.

6) Alterations to Approval

a) Changes to an approved conditional zoning district or to the standards, uses, requirements, or conditions attached to the approved conditional zoning district shall be treated the same as amendments to this Ordinance or to the zoning maps and shall be processed as a Conditional Rezoning, unless possible to modify as an Administrative Adjustment. Minor changes may be modified as an Administrative Adjustment. The below list represents examples of both minor and major changes.

i) Minor Changes such as those listed below would require staff level approval.

1. Modifications in building placement, provided the placement complies with the setbacks of the corresponding base zoning, and does not decrease the setbacks agreed to and approved during the conditional rezoning process by more than 10 percent;
2. Increases to building size and height not to exceed 10 percent provided all other applicable standards of this Ordinance are met;
3. Modifications to structure floor plans;
4. Modifications to the driveway locations not exceeding 10 percent of the length of the subject property line, or as required by the North Carolina Department of Transportation; and
5. Modifications to the proportion of housing type not to exceed 10 percent

ii) Major Changes such as those listed below will require reapproval by Council.

1. Land area being added or removed from the Conditional District;
2. Modification of special performance criteria, design standards, or other requirements specified by the original approval;
3. A change in land use or development type;
4. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access;
5. When there is an increase in the total number of residential dwelling units greater than 5%. This includes both single family homes and multi family homes;
6. When the total floor area of a development is increased more than 10% beyond the total floor area last approved by Town Council. Changes of less than 10 percent may be approved by the Administrator.

7) Review of Approval of a Conditional Zoning District

a) It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Administrator shall examine the progress made toward developing the property in accordance with the approved conditional zoning district and any standards, uses, requirements, or conditions attached to the approval.

b) If the Administrator determines that progress has not been made in accordance with the approved petition and conditions, the Administrator shall begin proceedings to rezone the property(ies) to its previous zoning classification or to another district(s), as appropriate.

c) The Administrator shall continue to monitor conditional zoning districts in this manner at least every 2 years, until they are determined to be substantially builtout (90% or more of units, square feet, or land built out)

Sec. 10-238. Food trucks.

(a) Findings and intent.

(1) Allowing food truck businesses to operate in Surf City promotes diversification of the town's economy and employment opportunities. Food trucks support the incubation and growth of entrepreneurial/start-up businesses.

(2) N.C.G.S. 160A-174 grants towns the power to define, prohibit, regulate, acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town through the creation of ordinances.

(b) Definitions. The following definitions apply to this article:

Food truck means a readily movable trailer or motorized wheeled vehicle, currently registered with the N.C. Division of Motor Vehicles, designed and equipped to serve food is governed by the N.C. Department of Health & Human Services, is subject to the regulations of the 15A NCAC 18A.2600, as amended.

Food cart means a readily moveable trailer or motorized wheeled vehicle, currently registered with the N.C. Department of Motor Vehicles designed and equipped to serve food, is governed by the N.C. Department of Motor Vehicles and is subject to the regulations of the 21 CFR 117 Subpart B, as amended.

Regulatory fee means fee assessed to cover the cost of regulating a particular business activity that is assessed to the particular business being regulated.

(c) Permitting.

(1) A valid permit shall be required to operate a food truck or food cart within the corporate limits. A regulatory fee as adopted in the schedule of fees shall be assessed to cover the costs associated with regulation of food trucks and food carts. All food truck or cart operators shall obtain an annual permit from the town manager or their designee.

(2) A food truck permit shall be valid one year from the date the permit is issued. This permit shall be produced upon request by any Town representative.

(3) Food truck or food cart operators shall have written approval of the hosting business owner or operator at any location at which the food truck operates. This approval shall be produced upon request by any Town representative.

(4) Food trucks shall provide documentation of approval from the North Carolina Department of Health or North Carolina Department of Agriculture and Consumer Services, a valid NC registration for all vehicles used in the the operation of the truck or cart. A copy of their valid driver's license and proof of insurance. A valid health permit or most recent Notice of Inspection must be maintained for the duration of the food truck permit and shall be placed in a conspicuous location for public inspection.

(5) A food truck or food cart permit does not include peddler, solicitor, or transient vendor as defined by the Town Code.

(6) No permit issued shall authorize a food truck or food cart to operate on or from a public street.

(d) Regulations. Food trucks and food carts shall be allowed to operate on the premise of a business or commercially zoned property. Ice cream/shaved ice retail from motor vehicle shall be allowed on interior subdivision streets only. No vendor shall operate on Highway 210,

Highway 50, North Shore Drive, South Shore Drive, or North Topsail Drive. Audible music cannot be played while on the above streets within the Corporate Limits.

(1) The food truck or food cart shall be positioned at least one hundred (100) feet from the customer entrance of an existing restaurant during its hours of operation, unless the food truck or food cart operator provides documentation that the restaurant owner supports a closer proximity.

(2) A trash receptacle shall be provided for customers. All associated equipment, including trash receptacles, must be within three (3) feet of the food truck or cart.

(3) Temporary connections to municipal sewer and water are prohibited. All electrical connections shall be in accordance with the State Building Code.

(4) Food trucks and food carts shall only operate on private property, unless they are part of a town approved special event.

(5) No food truck or food cart shall conduct business on any public right-of-way, sidewalk, upon any public road in the town, or any property owned by the town; except for town approved special events.

(6) No food truck or food cart shall occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the hours of operation of the principal use do not coincide with those of the food truck or cart.

(7) No liquid, grease or solid wastes may be discharged from the food truck or food cart. Absolutely no waste may be disposed of in tree pits, storm drains, the sanitary sewer system or public streets.

(8) Food trucks must have the following fire extinguisher on board during hours of operation: minimum Class 2A, 10B, and C rated extinguisher. A food cart is at minimum of Class 2A fire extinguisher on board during its hours of operation. If food preparation involves deep frying, a Class K fire extinguisher must also be on the truck. All National Fire Protection Association (NFPA) standards shall be met to include fire extinguishers and fire suppression hood systems shall be maintained. This provision shall be enforced by the town fire marshal or his/her designee.

(9) A food truck or food cart vendor shall not operate the food truck or cart as a drive-thru window.

(10) Lighting shall be such that minimizes the glare on roadways and surrounding properties.

(11) No signage shall be allowed other than signs permanently attached to the motor vehicle and one temporary sign may be permitted in accordance with the temporary sign standards in Section 6.7, Appendix A Zoning.

(12) The noise level from the food truck or food cart shall comply with the municipality's noise ordinance.

(13) No vendor shall remain on site at one property for more than twelve (12) hours in a 24-hour period, unless the property is owned by the food truck or food cart operator and is the site of a brick-and-mortar restaurant owned by the same individual(s) who utilize the location as the truck or cart's commissary kitchen.

(14) Food trucks or food carts shall be positioned at least fifteen (15) feet away from any fire hydrants, any fire department connection, utility box or vault. The food truck or food cart shall not be located within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. A food truck shall not impede ingress and egress from driveway entrances, handicapped parking spaces and ramps, building entrances and exits.

(e) Suspension and revocation of permit.

(1) The permit issued for the food truck business may be revoked if the vendor violates any of the provisions contained in this article.

(2) The town manager or their designee may revoke a permit if he or she determines that the food truck vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.

(3) The town manager reserves the right to temporarily suspend food truck permits during times of special events.

(f) Unpermitted food trucks

(1) Food truck or food cart owner and or operator found to be operating without a permit shall be assessed a fine of one hundred fifty dollars (\$150) and shall immediately cease operations until a valid permit is obtained.

(2) The business operator or owner hosting the food truck shall be assessed a fine of one hundred fifty dollars (\$150) per non permitted food truck.

(3) Any food truck with an outstanding fine will be ineligible to obtain a food truck permit until the fine is paid.

(4) Any business with an outstanding fine will be ineligible to host food trucks until the fine is paid. Any additional food trucks hosted prior to the payment of the fine will result in an additional one hundred and fifty dollars (\$150) fine per incident.

(Ord. No. 2018-19, 12-4-18)



Town of Surf City

Douglas C. Medlin, Mayor
William J. (Buddy) Fowler, Mayor Pro-Tem
Dwight Torres, Councilman

Donald R. Helms, Councilman
Teresa B. Batts, Councilwoman
Jeremy Shugarts, Councilman

To: Council
From: Amy Kimes
Date: September 17, 2021
Subject: Ordinance Amendment – Food Truck Section 10-238

SUMMARY

In 2018 the Town discussed and passed an ordinance allowing Food Trucks to operate by permit within the Town of Surf City. This ordinance set the permit fee, permit requirements, and operational requirements. Since that time code enforcement has worked with individuals regarding initial permitting and enforcement of the ordinance. During this time staff realized that changes needed to be made in the ordinance to accommodate businesses that were not covered under the existing language. Also, staff realized that the current ordinance only allowed for a nonpermitted food truck to be shut down and fined fifty dollars (\$50).

After reviewing the ordinance and enforcement procedures staff has provided a revised ordinance for your review. The major changes found in the ordinance consist of:

1. Addition of a food cart. This included additional definitions which delineated between a food truck and food cart. By adding the food cart the ordinance can now be applied to all types of business governed by NC Department of Agriculture. Previously the ordinance only referenced the NC Department of Health & Human Services which limited the types of businesses allowed to operate within Town limits.
2. Clarification that an “ice cream truck” is covered under this ordinance and can operate on interior residential streets.
3. Added requirement that food truck/carts cannot occupy a required parking space.
4. Removed the fee amount from the ordinance and referenced schedule of fees. The fee was reduced from five hundred dollars (\$500) to two hundred fifty dollars (\$250) during the budget adoption process.
5. Enforcement. The new ordinance requires a nonpermitted business to cease operation until a permit is obtained and be required to pay a one hundred fifty dollar (\$150) fine. The property owner hosting the food truck/food cart will also be required to pay a one hundred fifty dollar (\$150) fine.

The above changes will provide more opportunity for a diverse food truck/food cart selection while clearly defining the Town’s expectation and enforcement.

ACTION REQUESTED:

Approval of the revised ordinance as submitted.



Town of Surf City

201 W. FLORENCE WAY
POST OFFICE BOX 2475
SURF CITY, NORTH CAROLINA 28445
(910) 328-4131 | FAX (910) 328-1746

Douglas C. Medlin, Mayor
William J. (Buddy) Fowler, Mayor Pro-Tem
Dwight Torres, Councilman

Donald R. Helms, Councilman
Teresa B. Batts, Councilwoman
Jeremy Shugarts, Councilman

To: Honorable Douglas C. Medlin, Mayor
Surf City Town Council

From: Kyle M. Breuer, Town Manager 

Date: September 17, 2021

Re: Potential Land Donation

The Town has been approached by representatives that own land within the Town of Surf City, specifically identified by PIN 4235-14-3274-0000, and situated to the west of the future Earl G. and Inez Batts Recreation Complex. This parcel mostly contains a pond excavated as a borrow-pit and is connected through that pond to the Town's land.

With the potential dedication, the Town would be able to utilize this area for walking trails and other amenities for recreational benefit to the Town and its residents. Additional future uses could be considered as well.



Town of Surf City

201 W. FLORENCE WAY
POST OFFICE BOX 2475
SURF CITY, NORTH CAROLINA 28445
(910) 328-4131 | FAX (910) 328-1746

Douglas C. Medlin, Mayor
William J. (Buddy) Fowler, Mayor Pro-Tem
Dwight Torres, Councilman

Donald R. Helms, Councilman
Teresa B. Batts, Councilwoman
Jeremy Shugarts, Councilman

To: Honorable Douglas C. Medlin, Mayor
Surf City Town Council

From: Kyle M. Breuer, Town Manager 

Date: September 17, 2021

Re: Potential Land Donation

The Town has been approached by an adjacent property owner to PIN 4235-90-2395-0000; an adjacent tract to the former Police Department. The purpose of the easement is to provide a temporary easement for emergency fire apparatus access for future development currently being reviewed by the Town's Technical Review Committee and Planning Board.

Conditions of the temporary easement would be based upon the potential sale or lease of the town-owned property, consideration of any potential value, and material and remediation costs post easement use.