

CAROLINA BEACH

Planning and Zoning Minutes
Thursday, October 10, 2019 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

The Town of Carolina Beach Planning and Zoning was held on Thursday, October 10, 2019 at 6:30 PM at Council Chambers.

PRESENT: Keith Bloemendaal, Deb LeCompte, Mike Hoffer, Wayne Rouse, Melanie Boswell, and John Ittu

ABSENT: Jerry Kennedy

ALSO PRESENT: Director of Planning & Development Jeremy Hardison

. CALL TO ORDER

The meeting was called to order at 6:36 p.m. by Chairman Bloemendaal.

. APPROVAL OF MINUTES

Planning & Zoning - September 12, 2019 Meeting Minutes.

Commissioner LeCompte made a motion that we accept the minutes as submitted.

Commissioner Ittu seconded, all were in favor (6-0).

. STAFF REPORT ON RECENT COUNCIL MEETINGS

Mr. Murphy reported on recent Council Meetings.

Town Council heard on a few CUP's that P&Z voted on in September, one was pulled due to a potential issue with an easement.

. STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Murphy reported on the recent activities in the Planning Development Department.

Staff Update - October 10th, 2019

Permitting

- 36 Permits (renovation, repair, grading, additions, fence)
- 6 Residential New Construction
- 7Certificates of Occupancy

Code Enforcement

- 6 Complaints Received
- 5 Resolved

Demolition – 102 Hamlet– New Lifeguard Facility

New Business - Nautie Dog - 5 Cape Fear

Land Use Plan

- Updating changes from the last few meetings
- Clarifying what will be reviewed by CAMA in the new format
- Final updates on Land Classification Map

- Timeline:
- Revised plan to committee this week
- November/December PZ
- January TC

<https://www.carolinabeachcamaupdate.com/>

Watershed Plan Update

- Site assessment of problem areas (October)
- Prioritize of area work (October)
- Identify goals/benchmarks/implementation schedules (November)
- Plan completion (February 2020)

Technical Review Committee - October 21, 2019

- Review Proposed Freeman Park Changes (TC-October 22)
- Review driving on the concrete portion of the boardwalk allowances (TC-November 12)
- Sign ordinance update to be consistent with US Supreme Court decision - content neutral (P&Z-November 14)
- Review parking lot, commercial for pay allowance (P&Z-November 14)

Upcoming Special Events

- 2nd ANNUAL BEACH, BACON, & BEER FESTIVAL SATURDAY Oct 12th 11:30 am – 5:00 pm CAROLINA BEACH LAKE
- SURF FISHING CHALLENGE– FRIDAY Oct 18th – Start 9:00 am – SUNDAY 20th – End 5:00 pm – FISHERMAN’S LOT
- CB FIRE DEPARTMENT BBQ – SATURDAY Oct 26th– 11:00 am till SELL OUT – FIRE DEPARTMENT
- BIKE RODEO – Saturday Nov 2nd – Town Hall – 2:00 pm – 5:00 pm

PUBLIC DISCUSSION

No one signed up for Public Discussion.

- Consider a Conditional Use Permit at 401 Marina St - Carolina Beach Marina and Yacht Club to operate an eating and drinking establishment that will consist of a floating barge located at 401 Marina St. Applicant: CBYC, LLC

Mr. Hardison reported on this CUP -

This item was first reported in November 2018 this never made it to Town Council, it was pulled by the applicant. There were some changes made to the site plan which is why it is before you now.

Existing Uses:

- 69 Boat Slips
- Residential Units
- Marina Store & office
- Fuel Dock
- Existing off site 56 space parking lot

History: Presently there are Three Ownership's

- CB Marina & Yacht Club
- Spinnaker Point - 4 Multi-Family Buildings
- Oceana Subdivision - Single Family Homes with a marina to the north of the subdivision

Proposed Additions:

- 40' x 120' Barge off the existing fuel docks
- 40' x 16' Building
- Concession stand, dockhand office, retail and a horseshoe service area that will provide hot dogs, sandwiches, beer and wine
- Expanding the fuel docks by 180' x 12' to the north
- The existing building will be utilized as an office and storage with an existing residential unit above
- Additional 13 parking spaces

Adjacent Uses: Single family homes, Town Well, Spinnaker Point & Oceana Gate.

Off-street parking: Existing Parking - 79 spaces, Total required - 94 spaces, Total provided - 96 spaces.

This meets the 7 Specific Standards and the 4 General Conditions - there will be one condition on the permit which is the change, there shall be no encroachments on the towns well site property which include any easements or screening requirements or any encroachments.

There were no questions for Mr. Hardison

Chairman Bloemandaal opened the public hearing.

Jennifer Carpenter is here on behalf of the applicant Carolina Beach Yacht Club and Marina, she presented a packet to the commissioners. She wanted to address the issues that were brought up the last time the P&Z Commission heard this CUP and to answer any questions. As Mr. Hardison pointed out this does meet the 7 Specific and 4 General requirements. One of the issues before was keeping with the towns Land Use Plans and the long term plan the town has for this area. There is an excerpt in the packet from 2007 CAMA LUP this addresses the objectives and states there is limited land available in Carolina Beach and to encourage low intensity water oriented restaurants, commercial services with public docking and water access. She feels the marina is the prime location to further this plan. With the previous LUP back in 1997 Spinnaker Point and Oceana area were developed to be a boat/water community and the marina has been there for 25 years. To address the

concerns regarding the decrease in property value she presented information regarding some of the other businesses in Carolina Beach which the adjacent property values have increased over time. The changes that are being made are the 13 additional parking spaces along with the handicapped parking access and have addressed the loading zone.

Commissioner Rouse asked if there was a CAMA permit required, she replied that there was one submitted and operates under the existing permit.

James Sanderford resides at 418 Marina St he is the president of the Oceana HOA. Feels there are very important issues that need to be addressed. Wants to clarify what Ms. Carpenter stated - there isn't enough parking, the yellow line was surveyed by one of the HOA board members, there is a change of use.

Overview -

- Zoning for the Marina Parking within Oceana is not in compliance
- The yacht club and marina is using the town's well site property for its operations
- Noise
- Public safety (violation of NC Fire Code)

Presentation - (Per Mr. Hardison staff has not seen the materials prior - Chairman Bloemendaal allowed for presentation).

Mr. Sanderford presented photos of the Oceana parking lot that had boats and trailers parked within. Commissioner Hoffer asked do you know for certain that they are not owned by Spinnaker Point residents. Mr. Sanderford replied a resident had rented a spot from the marina, this is being used for marina business but zoned as residential. Chairman Bloemendaal asked is this a code enforcement issue or would this be considered a conditional use permit issue. Mr. Hardison replied there was a complaint filed and the town investigated but there weren't any boats present added there is no proposed boat storage. Chairman Bloemendaal pointed out that in Mr. Hardison's presentation there was an easement granted for the marina to use the parking lot. There was a complaint by a resident regarding a car driving at high speeds - this is a safety issue.

Regarding the well site - there is present parking on town property which is an issue. Stated the North Carolina Administrative Code Title 15A Dept of Environmental and Natural Resources Division of Water Quality Subchapter 2C - which points out the water supply well and potential contamination. This land was given to the town by Bobby Harrelson when Spinnaker was being built because there wasn't enough pressure and with a condition if abandoned or misused then the site would revert back to him. Mr. Harrelson has spoke with Mr. Hardison regarding the parking issue already. Chairman Bloemendaal asked Mr. Hardison is this something that we've talked with the owner about regarding parking in the area Mr. Hardison replied the result of the condition is there shall be no encroachments on the town's well site from the marina property and the town is working with the current owner to remove any encroachments and the town has plans to install a fence. Noise is a factor especially over water which is amplified. And most important is the barge location in relation to the fuel pumps. The barge is adjacent to the fuel tanks and they will be cooking on the barge, smoking and talking on cell phones which is everything you should not do while pumping gas. Feels this is an accident waiting to happen. Building codes are mostly to prevent things that have gone wrong during building processes. Lastly the Fire Codes - the NFPA 30 A Codes and Standards these are recommendations/guide lines - The dispensing of liquid fuels at marine motor fuel-dispensing facilities shall comply with Section 2210.3.1 through 2210.3.5 - 2310.3.1 General. Wharves, piers or floats at marine motor fuel-dispensing facilities shall be used

exclusively for the dispensing or transfer of petroleum products to or from marine craft, except that transfer of essential ship stores is allowed. This design does not meet the fire code and it's his responsibility as an engineer for the safeguard of the public. This is not a threat but if this is passed he will have to call the fire marshal because it is his responsibility. Chairman Bloemendaal stated that this commission do not pass or fail we are just here to make recommendations.

Jeannie Mist resides at 205 Georgia Ave and has been a resident before Oceana or Spinnaker Point where ever thought of. The developer had thoughts of both at the same time, they were not an after thought, even though Oceana was built after the Marina. Feels there are several hundred home in this area full of taxpayers that aren't going to be happy. Stated as a real estate agent she doesn't see the increase of property value in the area. Regarding the safety issues they fought for the speed bumps in the area for the reason to slow the speeders down and haven't had a problem since. There are possibilities of vandalism with homes and boats and there is so much congestion already. She would like know how many people will the barge hold. Mr. Hardison responded occupancy is determined by the fire marshal. She feels putting a barge will only add to the trash that is already accumulating on the river. She has no problem with having a bar but this is not the right place for one.

Trisha Keene she is a resident of Oceana on the opposite side of where the marina is. She is a licensed real estate agent and would like to talk about home values. She has clients that have homes for sale in the area and feels this would be a detriment to the neighborhood. Stated there is a home on the market that sits directly in front of the proposed area. Feels the information stated by Jennifer Carpenter regarding the increased values of homes adjacent to other businesses if false. There is a home that's been on the market for over a year and has been reduced \$100,000K. Chairman Bloemendaal asked if there were any comps in the neighborhood. She was the agent for 4 of the homes listed on Canal and the prices were all different. She is concerned about Florida, Georgia, and Virginia these streets will have more traffic getting to and from the Marina. This all affects the people's home values. Feels that having a neighborhood already established and then adding a restaurant is very different then if you purchase a home near a restaurant-bar. She is opposed to this.

Elizabeth Burton lives at 400 Virginia Ave. She has trust issues with the Marina had a shipping container and would be there for a few months until the repairs would be complete and it's now been over 2 yrs. Their dumpster smelly and disgusting and are overflowing on the weekends and during the summer. She had complained and they said they would have them moved but they are still there. We're neighbors and want to get along but they are using things that aren't theirs and don't belong to them. This is a gated community and she lives alone and feels unsafe allowing random people in and driving through her neighborhood and feels this is a terrible idea.

Dylan Baker at 401 Marina St and is the manager at the Carolina Beach Yacht Club. Wants to point out a few things he feels are somewhat inaccurate once they received the complaint regarding the trailer storage they immediately removed all leases and there are no longer any boats or trailers in the back lot. Regarding the proposed hours for this establishment will be the same hours as the office which is sunset everything is shut down which will be open only in the day time. They want this to be a casual establishment where boats can pull up to and add to the amenities that Carolina Beach has to offer to boaters. The beach next that's next door has been used for other businesses like rentals and swimming lessons during the summer. Regarding the noise issue there will always be loud boats, there won't be any issues during the evening due to the closing time. Regarding the

parking they will have the back lot strictly for slip holders only that will be sticker-ed and if not they will be towed. Feels that the issue of the pool is untrue as the manager he makes sure no one trespasses in their area and tries to be completely respectful. There was an agreement for the use of their pool but was revoked a long time ago. Wants this to add to the amenities and bring it up to speed like Wrightville Beach and Southport have to offer their boaters.

Elizabeth Burton just wanted to reiterate regarding the trash issues and how often she had requested the trash to be moved and nothing has been done about it.

Kerry Machovec lives at 309 Georgia Ave and feels that her home is basically going to be unsellable. Property issues are a huge concern they enjoy boating, music, drinks and food just like everyone else. She has to take into consideration her property and her neighbors as well as the community and the reason they built there. At present there is a fence with trees and they are fine with that. The property is on a hill and mixing alcohol and cars in a residential high pedestrian neighborhood is a bad idea. She witnessed someone pulling out of the marina and almost hit a woman pushing a child in a stroller. There are lots of children in the neighborhood outside playing. Parking and flood water are also major issues. Feels this will be detrimental to the property value and is definitely a public safety issue and feels this is not in harmony with a quiet residential neighborhood. Would like to know where will the boats park. There's an issue with the loading zone being directly in front of her home. She understands they may have rights because of the zoning but you have to consider the community as a whole which is a family community.

Kim Geiger lives at 401 Marina St. she is not a home owner so she can't speak about property values but wanted to point out that we are all members of the same community. They enjoy living there because it's quite and they want to maintain that. They want to expand on what they have to offer through the business that already exists and want to maintain the residential benefits that we all enjoy. They are not looking at turning this into anything that would be loud. They want this to be an access to the waterway for the entire town, residence and visitors as well. We want to be on the same page as community members.

Taylor Reese lives at 222 Georgia as a young person he plans on raising a family and he is not opposed to (inaudible) he doesn't think it would affect raising a family or having any of simple life on the north end. He also is an employee at the marina for 7 yrs. Said 90% of boaters in Carolina Beach to Southport to Wrightsville Beach and anyone traveling on the intracoastal way that were asked would like another dining experience and he feels it would be a great addition to the north end.

Olin Furr lives at 440 Oceana Way is retired but was in the retail business. They are talking about limited hours but feels that when having a business you need to keep it open and for the business to succeed. They may not be planning on keeping it open late now but he feels that won't last long. Being in the petroleum business this is a fueling facility and doesn't feel this is going to work. With the rules and regulations you can't have both a fueling facility and restaurant together. In Oceana they have spent a lot of money upgrading their fire system on the marina side because it need to be updated. Hopes that the fire system on the marina side is up to date to make sure it's safe for their patrons.

James Sanderford wants to add regarding the CUP permit he was told by the Oceana attorney, who couldn't attend the meeting, this can't be grandfathered in because there is a change of use. On a

personal note he has 3 children that are going to school and study a lot and feels the noise will be an issue. They typically don't have any issues other than around the week of July 4th. There's a walkway from Oceana to the beach this year he received an email that there was a couple having sex in the middle of the walkway about 3 o'clock in the afternoon. Last year his boat was vandalized and the year before there were kids jumping off the walkway into the marsh. He feels with more people there will be more issues and they will have 4th of July every weekend.

Stewart Bailey he lives the closet at 335. There was reference to the property value which he's not concerned about but with the marina it was built before a lot of the residents but was not built before his home was because he helped build the marina. His concern with this project is the safety for his family.

Jennifer Carpenter wanted to respond to some of the issues that were addressed. The Fire Marshall has been out and approved the location of the fuel pumps which will be spread out and would provide more spots for boat docking. There will be no indoor seating and the Fire Marshall will determine the maximum occupancy but will be approximately 18 outside seating. She feels that a lot of the issues ordinate issues and are related to Code Enforcement which do not involve this project. The applicant has reached out to the community and they have offered a lot of concessions to homeowners in Oceania to make this cohesive in the neighborhood and the offers were rejected. Regarding the hours of operation they will be the same as the Marina 5:00 in the winter and 6:00 in the summer. Regarding the parking in the 100 ft radius in the well property they will not be parking in the area so there will not be any encroachment. With having the barge in place this will help stabilize the dock which will be helpful on the side of safety in that area. The parking that is within the subdivision is not changing and with the trespassing issues etc this shouldn't be considered in this permit it is an enforcement issue. There was an offer for the HOA to enforce violations in the parking lot but they didn't want to accept that.

Questions for Ms. Carpenter-

Chairman Bloemandaal asked to address the parking spots near the easement that is named the loading zone and what this will be used for. Ms. Carpenter replied that the loading zone is to bring in supplies with signage stating no parking between 8:00 and 11:00 am. And regarding the additional 13 spot this will not be on a hill it will be regraded completely.

Commissioner Boswell wanted clarification on the operation hours. The manager mentioned it will be opened till sunset but you're saying 5 and 6. Ms. Carpenter replied the hours of the marina are 5 and 6 and the restaurant will close at the same time as the marina.

Commissioner Ittu are you aware of any regulations regarding slip owners that would prevent them from bringing alcohol or beer on their boat. And is there any intention for attracting motor vehicles coming in. Ms. Carpenter responded people are going to do what they do whether there are regulations or not. But regarding the boaters grabbing a beer and wondering around is not permissible. The intention wasn't ever to bring in more vehicular traffic it is to provide additional amenities for those that are coming in to refuel.

Commissioner Rouse asked does the ship store currently sell beer, Ms Carpenter replied not to her knowledge.

Both Ms. Burtron and Mr. Sandeford came up to state that no one has reached out regarding working things out or making anything better along with the parking. Chairman Bloemandaal added that Ms. Carpenter was referring to the boat trailer parking.

Mel Machovec lives at 309 Georgia stated he feels that his house is going to be effected the most so that when the parking lot and loading zone are developed I'm going to be able to spit on these cars from my deck. Feels the statement that this project won't decrease the value of my house is ludicrous it will destroy the value of my house. He feels the commissioners need to visit the area before they make any decisions.

Trisha Keen Real Estate Agent wanted to added that the couple that lives at 309 Georgia have a beautiful home and if 13 cars are parked across from his house his house will plummet in value and will probably never be able to move.

Dylan Baker wanted to address that after the previous hearing they did reach out to both HOA's and had a meeting with a handful of their representatives in their office and they had a memorandum that was sent out and was rejected.

Chairman Bloemandaal made a motion to close the public hearing.
Commissioner Hoffer seconded, all were in favor.

Chairman Bloemandaal stated that he appreciates all the people that have come out to give their input on this subject. He asked Jeremy to confirm that the Fire Marshall approved this and Mr. Hardison stated that their requirement be that the boat and fuel dock be a fire suppression system. He asked if they weren't adding the restaurant/barge could they still put in a parking lot on their property for marina business. Mr. Hardison replied if they're relocating the parking spaces it would have to be evaluated to the current CUP as a marina to see if it would be a major modification and would only need a CAMA permit if it was within 75 ft of the main high water line. Would parking affect their current CUP if they were adding parking. Mr. Hardison replied it would have to be looked at under the CUP. Chairman Bloemandaal, regarding the Change of Use for the parking in the residential area. Mr. Hardison explained the zoning district is marina business and the use is a commercial marina existing which they are expanding their services as a commercial marina is an establishment that provides goods and services, so they are expanding to offer food and beverages. When doing on premise alcohol that's another level of approval. Chairman asked can we recommend the CUP have restricted hours. Mr. Hardison replied you can not regulate the sale of alcohol the hours are set by the state. Chairman added that our LUP encourages this type of business and he does understand the safety concerns.

Commissioner Rouse to confirm the town will be putting up a fence around the well site. Mr. Hardison replied regardless of the outcome of this hearing the town has been in discussion with the property owner to install a fence which would eliminate any parking that would be encroaching on the well site.

Commissioner LeCompte asked would a restaurant be allowed by right in the existing structure. Mr. Hardison responded that restaurants are allowed in the marina business district but because this is a commercial marina if that restaurants requires more parking that would kick in a CUP.

Commissioner Rouse wants to point out what they are supposed to do as a board which is if the applicant meets the 7 specific requirements and the 4 general conditions and is within the zoning would allow the business to be there and is consistent with the LUP. We're not here to take personal opinions. Mr. Hardison confirm that is correct and added any action has to be based on the 4 general conditions.

Commissioner Ittu added that this is a very emotional issue for all involved. He's hearing the fears and what the planned development is and feels there's a disconnect. Feels the residence are looking at this from the worst possible scenario and what is proposed are the exact opposites is his personal observation.

Commissioners Discussion -

Concerns that have been brought up are property value as well as public safety, noise issues and needs to be discussed. They pointed out the numbers that they heard were the Tax Value of the homes not what the homes would sell for. Feels comparing the properties that were built near Stoked are apples to oranges, the homes were built after the bar. And feels the property tax records shouldn't be part of the consideration for property values. Most of Oceana was built after the marina which is in a Marina District and this is allowed. Feels they need to look beyond all the clutter like property value, the owners emotional ties, loading zones. Feels the 7 items are important and that staff has already addressed those but the 4 general items are a lot more subjective and feels that this is not in harmony with the area for this location and would be negatively impacted for the residents. As a realtor doesn't want to address whether property values would increase or harm but pointed out that buying a property in an area for growth you have to be aware that there could be changes. Added that as a board they are there to answer questions and make their discussion without any bias. Voted against this before and feels that this is still not in harmony. One commissioner feels that this is in harmony because it was allowed for both marina and residential districts from the beginning which is allowed as a CUP. Regarding noise that should be handled as an ordinance and enforceable. They discussed Fire safety and understands the traffic issues but this is a public area and it belongs to everyone. Having the Marina is one thing but adding a barge in the view of these homes is another and voted against this last time and will also voted against it tonight. One doesn't feel this will be any different if this passes it will give boaters another option and regarding the view he doesn't feel it will be a substandard barge. One shared that as a boater the barge would add to the safety of the fuel dock and suggested to make that area a no wake zone. Mr. Hardison added that the applicant has asked the town to look into that.

ACTION: Chairman Bloemandaal made a motion to recommend approval of the CUP for conditional use permit at 401 Marina St, Carolina Beach Marina and Yacht Club to operate as an eating and drinking establishment that will consist of a floating barge located at 401 Marina St. The use meets all required conditions and specifications the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town Land Use Plans.

Commissioner Ittu seconded, voted 3/in favor & 3/opposed.

DISCUSSION ITEMS

- b. CUP: 1012 S. Lake Park Blvd - Business PUD - Applicant: Ralph Roof

Mr. Murphy reported on this CUP - Business Planned Unit Development

The adjacent properties are a portion of Carolina Sands HOA, Uncle Vinny's at 1016 S. Lake Park Blvd, and Spot at 1006 S. Lake Park Blvd.

Business PUDs Permitted in the neighborhood business zoning district. ARTICLE III - Zoning District Regulations Sec. 40 - 72. The proposed site plan for the project including the second structure this would require a 10' landscaping buffer. The current structure is non conforming to property lines and extends onto the Carolina Sands HOA property which no buffer has ever been places there. Applicant proposes a 10' along the south end along with portions of the east and north end as well as maintaining a 5' for some portions along the north end in addition another 5' on the east end. The applicant is proposing to have the landscape buffer waved adjacent to the second structure as well as to accommodate parking.

The 4 General Conditions as well as -

1. - The density falls within the standard NB density requirements and the proposed structure follows the setback requirements
 - A waiver to the 10' landscape buffer is required for the current proposed structure to be built
2. - The proposed CUP does not meet all required conditions and specifications
 - It requires the 10' landscape buffer to be waived on the west and north for parking and on the north for the second structure
3. - The proposed structure will conform with the neighboring properties.
4. -The desired Future Land Use of the Mixed Use 1 area includes a future predominance of single-family and duplex units. Commercial uses shall include lower intensity restaurants and commercial services and retail. Building height shall not exceed a 50' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (A) and (B). Density will be moderate with 5,000 to 6,000 square foot lot minimums for residential uses, with around 15 to 17 units per acre density in Mixed Use 1 areas west of Lake Park Boulevard, and higher density ratios around 29 units per acre for Mixed Use 1 areas east of Lake Park Boulevard (oceanside). A ratio of roughly two-thirds residential to one-third commercial is desired. Lot coverage will not be allowed to exceed 40%.

The 7 Specific Standards as well as -

1. - Ingress and egress will remain via S. Lake Park Blvd
 - The parking lot design will accommodate 2-way traffic
2. - Parking will be contained on the property, but will require a landscape buffer waiver
3. - Trash will be collected in a refuse container onsite
4. - Utilities will be provided by Duke and the Town as they are already existing through the access easement
 - New parking improvements will require the grading of the lot so that no stormwater collects on the rear of the property and all stormwater is directed towards Lake Park
5. - A 10' landscape buffer is required for this type of development
 - Applicant is requesting a waiver in order to create enough parking based on the size of the second structure
6. - No signage is proposed at this time and any signage will have to meet all standards zoning requirements in the future

- 7. - There is no required yard or open space beyond general zoning standards for a business PUD
 - Minimum of 15' between structures
 - Minimum of 10% of open space
 - Below maximum of 40% lot coverage

Set Backs are -

Required	Proposed
20' in the front	32.8'
10' in the rear	10'
7.5' on the side	7.5'

Staff Recommendation -

Staff recommends the CUP meet all landscaping requirements as it has concerns about the proposed structure and parking not being able to meet the standards and over the fact that the current required 5' landscaping buffer was not completed nor maintained, but otherwise has no objections to the proposed Business CUP.

Chairman Bloemandaal made a motion to opened the public hearing. Commissioner LeCompte seconded, all were in favor (6-0).

George Pinkston - represents Ralph Roof his office is on Wrightsville Ave in Wilmington. They have worked with a surveyor to produced this drawing regarding the addition to the second building on the property. This is a complicated lot to make the additions but they believe the perimeter and landscape they are proposing will be adequate screening that will provide fire and flow and refuge and containment to the operation. We also believe this will be a pleasant consumer experience and a business flow for this area.

Commissioner Hoffer asked you are purchasing some land behind an existing property to make room for this property. Is there limitations to how much land you can purchase. Mr. Pinkston replied they had to leave 5,000 sq ft for the properties that they purchased from and in each case there were approximately 7,500 ft total so they purchased approximately 5,000 for two properties leaving 5,000 foot. They determined with the purchase that they were able to meet the parking and the building size to then present this to the board.

Chairman Bloemandaal asked about the back landscape buffer behind the parking spots looks like there is landscape buffer that's not actually part of the property that they are purchasing. Mr. Pinkston replied the property jogs and there is an off set. Question for Mr. Hardison with that purchase when they recombine that, does it automatically become the neighborhood business district. Mr. Hardison replied they are not zoned residential they are zoned as mixed use.

James Miller is a North Carolina building contractor and also a real estate broker and lives at 104 Carolina Sands Dr. He has seen many changes in his 30 plus years living here. Regarding loading zones the food trucks back up to the restaurants but the beverage trucks, which stops along the side of the road blocking the egress from Carolina Sands which is a safety issue and he has addressed this with the town but did not go anywhere. There have been multiple entertainment issues with the response for the fire and police departments and couldn't get through Carolina

Sands. There have been parking issues especially during the summer months. Doesn't understand how there are already two properties that fill up the spaces and then add an additional which will impact the egress and the safety of the area. They already have dumpster issues and do not maintain them. Regarding the noise ordinance this is difficult to enforce. Feels this area is already overcrowded.

Donna Dombrowski lives at 200 Seafarer Dr. for over 25 years. She has concerns with increasing the density of this area. Stormwater is an issue especially because we have green space now but if this is passed it will then become impervious surfaces. There are 9 Single Family residential homes that will be affected and some concerns are noise, odor and infestation with rats, they already have these issues what's it going to be like if this passes. Her question is the density of development in such a small area, is adding more food service restaurants in code compliance. Can't they put the landscape buffer on their property. Concerns for the safety of the residents in the surrounding area feels this is an already congested area. She understands that land development is important and that it brings a lot of revenue for our town which helps to keep our taxes low. Would like the commission to consider what affect this will be for the residents of the town and not just what the revenue would generate.

Geri Todd lives at 202 Seafarer Dr. and she has 2 issues. One is flooding, behind the proposed development is a stormwater drainage ditch which goes to Greenville Ave and then to the lake. When that was created there was and is a forest which absorbs all the runoff so with the proposed project, where will all the water go. Her second concern is if you waive the 10ft buffer for this property are you establishing a precedent for any future development, it was done for this property, why not mine.

Dr. Todd Peterson at 102 Carolina Sands. He appreciates that committee isn't here for all the personal gripes but wanted to thank them for listening. Just to reiterate about the rodent issues, odors from Vinny's sometime is lovely and others not and worries about adding more dumpsters and their odors. He is a new resident but has heard of the noise issues. Feels they are not meeting the standard because of the waiver to modify the buffer. He pointed out that Vinny's is also not making the standard and is over into Carolina Sands property.

George Pinkston he wanted to respond to things for clarity. Regarding the loading zone will be on property in the front will be off the street between 8:00am to 11:00am. There is a dumpster on site the will be enclosed and with the proposal they intend to improve the entire parking lot, the new building, he knows the landscape may not meet the requirements but will be a great improvement. They have been advised through TRC with the standards that they have to meet and feels this will be a much prettier operation and establishment. Regarding the density and code matter they've met the guidelines that TRC has asked for and they have conformed to them.

Commissioner Boswell asked Mr. Pinkston about the parking lot and the drainage. Mr. Pinkston responded that he does understand the concerns and would like to have an underground retaining basins and rock trenches on site but they are in a floodplain and near a canal so there is only so much they can do to control water. They will control runoff water and they will do what it takes to control our stormwater from our buildings and parking lot. They are not intending to use impervious concrete.

Geri Todd wanted to add that the general conditions for a conditional use permit addresses public

health and safety. A large impervious parking lot is going to create a lot of flooding which is a public health and safety issue. The drainage ditch was not designed for a large impervious parking lot, please consider that. Does the conditional use permit meet all the conditions and specifications that are required for it, right now they do not.

Ralph Roof lives at 105 Tennessee Ave. He wanted to address the concerns of the water, the land does not go back as far as the drainage ditch and they can't be held responsible for the drainage ditch which is not on their property. They will retain all the water that falls on this impervious surface on site and it's going to drain on the ground with a manhole. He doesn't feel that they are not responsible for all the rats in the world. They will clean up the dumpster area the best they can and promises there won't be anything on their parking lot that the rats want.

Chairman Bloemandaal closed the public hearing.

Commissioners Discussion -

Chairman Bloemandaal stated that the density was just changed by Town Council which then it's being met. Rats is a health department issue not a town ordinance issue. Stormwater and pervious and flooding he pointed out that there is still a lot of land that could be built on and more pervious added so that town would have to address the ditch. Ingress and egress he feels this is a code enforcement issue. He is about to build his own home in the Carolina Sands neighborhood so he understands all of the concerns. Revenue and development is never a part of their consideration for anything that comes through this board. The landscape buffer is a big concern and the rear is the main concern. All three of the lots are zoned mixed use and at some point will get developed. We get a lot of backlash on this board for letting landscape buffers go by.

Commissioner Hoffer asked staff about stormwater, originally there wasn't a stormwater plan for this property but what about the existing. Mr. Murphy replied that the biggest concern for Brian Stanberry was just the water would flow towards Lake Park Blvd and the grading be done properly and if not contained on site that it would flow towards Lake Park but he did not require containment based on the design. So the lots behind will not take on the stormwater it will move toward Lake Park. Mr. Murphy replied that is the requirement. They are also asking for a landscape buffer on the front, Mr. Murphy replied they only have a 5' proposed which should be a 10' buffer, 5' was already in place on their old site plan with the exception of the ingress-egress points. Landscape buffers are for beautification and to help the noise level.

Commissioner Rouse stated that Brian Stanberry and the building inspector will make sure that this will be graded properly. Regarding the ditch the applicant doesn't have any control over that and maybe the town should address that. And as for the forest it will still be there but a little smaller which will be 10,000 sq ft total. Asked does the person still own the remaining 5,000 sq ft lots, Mr. Murphy replied yes. Wonders why they are not here opposing this. Said that Vinny's is grandfathered regarding the overage of the property line. Mr. Murphy pointed out yes it has been grandfathered in but the landscape buffer over the years has never been met.

Chairman Bloemandaal asked with this becoming a PUD does the 10' include Vinny's building. Mr. Murphy explained it should be for the whole property but because of the nonconformity of the structure it cannot be placed along the side.

Commissioner LeCompte asked about the parking feels this is a very smaller number of spaces for two restaurants. Mr. Murphy replied the parking is based on the standard structure requirements for the gross indoor floor, the patio area of the existing establishment as the proposed establishment which comes out to 27 spaces and they have provided 28. Mr. Hardison added that the new building is only 777 sq ft inside.

Commissioner Ittu needed clarification on where the buffer waiver is, Mr. Murphy pointed the area out for him. He has an issue with the landscape buffer.

Chairman Bloemandaal mentioned with the increase in the density and activity warrants the buffer.

Commissioner Hoffer added that he doesn't have many issues with this but has an issue with the fact whenever there's a CUP they want something waived. He feels projects should be worked within the parameters the town has given. Feels we are ignoring the beautification of our town. He feels there is a solution that they can come up with to make this work.

Chairman Blomandaal originally made a motion to approve the conditional use permit for the PUD at 1012 South Lake Park Blvd with no waivers on landscape buffer and the use meets all required conditions and specifications of location and character of the use for development according of the plan as submitted not including landscape buffer waivers and approved will be in harmony with the area in which it is located and in general conformity with town land use plan and policies. But denied it after further discussion.

Commissioner Hoffer stated for the record he is not against this but feels they must meet these standards.

ACTION: Chairman Bloemandaal made a motion to deny the conditional use permit for a PUD at 1012 South Lake Park Blvd based on the fact that the site plan does not meet all the required conditions and specifications.

Commissioner Boswell seconded, all were in favor (6-0).

Vote: UNANIMOUS

c. CUP: 406 Harper - Residential PUD - Applicant: The Pioneer Group

Mr. Murphy reported on this CUP. This is a residential plan unit development and the zoning district is R1 and the PUD is allowed by conditional use permit, the site plan meets the general zoning requirements for a single family home which has landscape buffers on both sides.

General Conditions as well as -

1. - The density falls within the standard R-1 density requirements and the proposed homes follow the setback requirements
2. - The use would have the same impact as two SFR on two independent lots, but the lot is too small to be divided
3. - The proposed CUP meets all required conditions.
- They are not asking for any waivers or modifications.
4. - The proposed residences will conform with the neighboring properties.
5. - The desired Future Land Use of the Residential 1 area includes a predominance of single-family and duplex units. Building height will not exceed a 50' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (B).

Density will be moderate with a minimum of 5,000 square foot lots and around 8.7 units per acre, with up to 15 units per acre allowed. Lot coverage will not be allowed to exceed 40%. Provision of infrastructure to undeveloped and un-served areas will be at the expense of the developer. New multi-family residential development shall be prohibited.

Specific Standard as well as -

1. - Ingress and egress will be via Wilson for one home and via Harper for the other
2. - Parking will be based off of the number of bedrooms (2 bedrooms per unit = 2 parking spaces per unit)
- Parking will be contained on the property
3. - Trash will be delivered to Harper and Wilson for standard pick up
4. - Stormwater and utilities will be standard
5. - There will be a minimum of a required 5' landscaping buffer
6. - No signage
7. - There is no require yard or open space beyond general zoning standards for a residential

PUD

- Minimum of 15' between structures
- Minimum of 25% of open space
- Below maximum of 40% lot coverage

Set Backs Are -

Required	Proposed
20' in the front	20'
10' in the rear	15'
7.5' on the side	10'

Staff does recommend the approval of the CUP. Mr. Hardison added this lot would yield a duplex without having to go through any approval other than a building permit.

Commissioner Rouse asked they are asking to build a multi-family home which they could by right but they want to separate those lots, Mr. Hardison replied yes they want to separate as two detached units and the landscape buffer that is required is 5'.

Commissioner Hoffer asked about the addressing of the homes. Mr. Hardison replied one would be addressed off of Wilson and the other off of Harper.

Chairman Bloemandaal opened up the public hearing.

Robert Calder is an attorney that is representing the Pioneer Group and feels that the applicant has done their very best and feels this is an easy call.

Stephannie Covington added they prefer to do single family over duplex.

Chairman Bloemandaal made a motion to close the public hearing, all were in favor (6-0).

Commissioners Discussion -

No problems with this and Commissioner Rouse stated just for disclosure he owns the property

across the street and feels this is in harmony with the neighborhood.

ACTION: Commissioner Boswell made a motion to approve the conditional use permit for 406 Harper Ave. that it meets the specific standards and general conditions. Chairman Bloemendaal added the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town Land Use Plan and policies. Commissioner LeCompte seconded, all were in favor (6-0).

Vote: UNANIMOUS

NON-AGENDA ITEMS

Stormwater/Tree Update - Mr. Murphy introduced Gloria Abbotts is currently a MPA graduate student at UNCW and is our intern for the next 11 months.

She went over the timeline which started in August of 2018.

- Councilman Garza requested the P&Z discuss amending the landscape ordinance to address tree preservation
- In 2005 Council had a similar request and the P&Z had concerns that **on a 5000 sq. ft. lot it is difficult to preserve any trees** after the lot is cleared for the house and the driveway. Ultimately an ordinance was adopted to encourage preservation or plantings, but it was not required and was **removed from the ordinance in 2015**. Although it is not required, most residential development does landscape and plant trees after development.
- Staff is not recommending an ordinance to move forward to Council and requests direction on any amendments to the landscaping ordinance.
- Action: Commissioners ask for a definition of what a Heritage Tree is and the benefits they have.

October 2018 Joint P&Z and Town Council -

P&Z and Town Council held a joint meeting and discussed tree preservation in the Landscaping Ordinance through polling:

1. Should CB focus on Tree Preservation

- Yes – 60%
- Only in parks, etc. – 40%

2. Why to protect trees/greenspaces?

- Improve Aesthetics – 28%
- Reduce stormwater/erosion – 21.4%

3. An incentive to protect Heritage Trees?

- Yes - 85.7%

4. What should that incentive be?

- Permit fee reduction
- Reduced Setbacks

5. Should tree plantings be required when construction is over and what type of construction?

- Yes – 46.6% à 100% All new res/com construction
- Case by case – 40%

6. How many trees based on lot size?

- 1 per 5000 sq. ft. – 66.7%
 - 7.Size of replacement trees?
 - 3” Caliper – 72.7%
 - 8.Impervious surfaces should be?
 - Reduced as much as possible – 75%
 - 9.Given potential to cause damage in storms, should trees be encouraged?
 - Yes, hardy, local species – 69.2%
 - 10.Reduced impervious should be incentive by?
 - Set rate until a standard % is reached. Consensus on trees not reached, emphasis on reducing impervious surface
- Consensus on trees not reached, emphasis on reducing impervious surfaces.

December 2018 P&Z -

- Amend Ch 40 Article IV Landscaping to encourage Tree Preservation
- 3 options presented based on survey from October 2018
 - Replace
 - Incentive
 - Removal fee
- Commissioners feel that focus should be on preserving canopy trees
- Action: Definition of and what type of trees, incentivize and what they would replant, save, or both.

February 2019 P&Z -

- Staff recommendation 1: Shift in setbacks
- Staff recommendation 2: Replacement of Heritage Trees removed
- Commissioners comments/direction:
 - Commissioner Bloemandall: the goal we are trying to accomplish is not only planting trees but **impacting stormwater runoff**
 - Commissioners agree that a tree ordinance would be **difficult to enforce**
 - Commissioners agree that education of the public on incentives to plant trees may be more appropriate
 - Older areas of the town have **more trees because of the larger lot size**. In the newer and more developed areas of the town there is **new stormwater infrastructure because of the smaller lot sizes**.
 - General landscaping and stormwater save the Town money and make more of an impact than planting trees
 - Staff recommendation 1 of **impacting setbacks is not supported** by all Commissioners
 - Concern with replacement if trees are damaged by no fault of the property owner
 - Tabling of tree ordinance in favor of pursuing stormwater

Commissioner Rouse wanted this on record and asked about the bill that the North Carolina legislature to limit municipalities. Mr. Murphy stated that was another factor that the ordinance was tabled in favor of stormwater and we may not have the power to enforce that.

He added that he doesn't believe it has been voted on yet or gone away.

Chairman Bloemandaal asked so we are moving the discussion to stormwater is there anything started with presenting that to P&Z.

Mr. Hardison stated there are a few things going on one is the water shed plan which sections of that have recommendations on how to control runoff the other is our northend Canal drive flooding committee are making recommendations and getting feedback from the community. We didn't want to adopt anything that would be in conflict with them what we want to do is to coincide with their efforts and will wait to see what comes of that. They will have a public workshop in late November or early December.

. **ADJOURNMENT**

Chairman Bloemandaal made a motion to adjourn.

Commissioner Rouse seconded, all were in favor (6-0).