

CAROLINA BEACH

Town Council Special Meeting Minutes
Monday, December 2, 2019 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

A Special Meeting of the Town of Carolina Beach Town Council was held on Monday, December 2, 2019, at 6:30 PM at Council Chambers.

PRESENT: Mayor Joe Benson, Mayor Pro Tem Tom Bridges, Council Member LeAnn Pierce, Council Member Steve Shuttleworth, and Council Member JoDan Garza

ABSENT:

ALSO PRESENT: Interim Town Manager Ed Parvin, Town Clerk Kim Ward, and Town Attorney Noel Fox

1. MAYOR BENSON CALLED THE MEETING TO ORDER

Before moving to the next item, Mayor Joe Benson announced that item 2d will be moved to the regular meeting on Tuesday, January 14, at 6:30 PM in Council Chambers.

2. DISCUSSION ITEMS

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

The following were sworn in by the Town Clerk:

Applicant Stephannie Covington, Applicant's Attorney Robert Calder, Town Planner Miles Murphy, Planning Director Jeremy Hardison, and Interim Town Manager Ed Parvin.

Mayor Benson: At this time, I open the evidentiary hearing. I would like the Town Attorney to give a brief overview of a quasi-judicial hearing.

Ms. Fox: Mayor, Council this same little introduction will be relevant for the next two matters also. This is a quasi-judicial matter. It means it's an evidentiary hearing, much like what would take place in a court of law. That means that you as a Town Council must follow specific procedures tonight and to make certain that the applicant and any parties withstanding have appropriate due process. The rules of evidence don't strictly apply, but we should try to adhere to them as best we are capable. All the testimony this evening must be competent, relevant, and substantial evidence. You must base your decision on that evidence presented here tonight. If you are speaking as a witness, please focus on the facts and standards and do not offer opinions or personal preference. Competent evidence is not the opinion of testimony of a lay witness regarding the use of a property, connecting value, or the impacts of traffic resulting from a proposed use any danger that would result nor is it testimony regarding certain items that only expert testimony would be allowed in a court of law. With that, as you are aware, Council, the parties that are here tonight are going to be entitled to have this matter judged by

impartial decision makers. If you have a conflict of interest, you must not participate. The conflict exists if you have a close, familiar business or other relationship with an affected person or a financial interest in the matter. At this time, does any member of Council have any conflict partiality to disclose or recusal to offer?

Mayor Benson: None heard.

Ms. Fox: And does any member of Council have any exparte communications or partiality that they need to acknowledge?

Council: No.

Ms. Fox: All right. Thank you very much.

Mayor Benson: Noel, before I turn it over to staff, will you need to give the overview that you just presented for the next two CUPS or does that?

Ms. Fox: I will certainly give an advisement or poll the board for bias and also for the conflict of interest for the record, but these instructions will also be relevant to matters 2b and c.

Mayor Benson: OK. Great. Thanks. Over to Miles.

Mr. Murphy: Good evening. It's nice to be up in front of all of you again on the final month of 2019. So let's get through these. Tonight we're going to start off with a conditional-use permit for a Residential Planned Unit Development at 406 Harper Ave. As you can see here, 406 Harper is in that little triangular piece of land between Wilson and Harper and 4th. It features a couple tracks of plot with single-family uses adjacent to it, and The Pioneer Group is here this evening advocating to put two single-family homes on that one parcel. As you can see here, Planned Unit Development Residential is allowed in the R-1 Zoning District by conditional-use permit provided that it meets the max residential density and adheres to the residential zoning standards. On the right side of the screen is a current site plan for the proposed two structures. It features a 5-foot-wide landscape buffer on the east and the west side of the properties with a driveway accessing Wilson and a driveway accessing Harper. There's also a proposed 15-foot separation between the two properties in the rear to meet minimum standards for building code. Otherwise the properties meet the setbacks for standard residential single-family development: 20 foot in the front, 7 and a half on the sides. The basic setup of this parcel is simply that the lot is too small to be divided by R-1 Zoning standards. They're coming in and asking for two legal single-family homes on a lot that has the density to accommodate it but not the size to accommodate the split of the parcel. So just going to walk you through a view here so you can get real acquainted with the through plot there we have. This is a view of 406 Harper from Wilson looking through. This is the adjacent property at 408 Harper and 404 Harper, as you can see two very low-profile single-family homes. And these are the three homes also adjacent to the property at 407 4th, 405 4th, and 407 Wilson, so as you can see all very low-profile single-family residences in line with the proposal from The Pioneer Group. The general conditions, the density falls within the standard R-1 requirements and the proposed homes fall within the setback. The use would have the same impact as two single-family residential homes on independent lots. As I mentioned earlier, it's just simply we cannot divide the lot under the circumstance based on the size. The proposed CUP meets all requirements and they are not

asking for any waivers or modifications. The residences will conform with the neighboring properties, and single-family residences are in line with the future land use designation of Residential 1 based on the current land-use plan. In regards to specific standards, ingress and egress is going to be handled like any other single-family home via both Harper and Wilson. Parking will be handled in the same manner as demonstrated on the site plan. Trash will be delivered to Harper and Wilson for standard pickup like any single-family home. Storm water and utilities will all be handled in a traditional manner. There will be a minimum required of 5 foot to landscaping buffer on the east and the west side of the properties with the north and south being primarily designated for driveway for access. There's no signage been proposed for Residential Planned Unit Development, and they meet the yard or open space requirements in addition to being below the maximum lot coverage of 40 percent and meeting the proposed setbacks, as you can see here on the right. Once again, they do meet those. Staff recommends the approval of the CUP, as they are not asking for any waivers. I'll be happy to answer any questions you may have.

Mayor Benson: Well, we'll hold those. At this time, the applicant may now present evidence and legal arguments in support of the request, sir.

Mr. Calder: Good evening, ladies and gentlemen. I'm Robert Calder. I'm here on behalf of The Pioneer Group, and I think that this is a really easy decision on your part. Like Miles said they're not asking for any waivers or variances. They can build a, and Miles correct me if I'm wrong, they can build a one-building, two-unit structure on that lot as a matter of right, so all they're doing is putting two structures on that lot as opposed to one with two units, which I think is advantage to the entire area. I think it's a pretty easy decision, but if y'all have any questions I would be happy to answer them and Stephanie Covington who is here with The Pioneer Group would be happy to do so also.

Mayor Benson: Council?

Council Member Shuttleworth: Robert, the only question I would have is they understand, of course, that they're not asking for a subdivision of the lot, correct?

Mr. Calder: Correct. That's absolutely correct, Steve.

Council Member Shuttleworth: So in the future when someone should transfer ownership whoever it is would own both structures, correct?

Mr. Calder: Correct.

Council Member Shuttleworth: So we're not asking for a, we're not asking for a, are we asking for a townhome plat?

Council Member Shuttleworth: So this has been the discussion we've had for years at Carolina Beach is how do we allow for increased densities because you do have the right to do a duplex, and what you've done is build a duplex in two separate structures, which we require as a CUP, but by subdividing it we're basically making two lots, so if you're doing a townhome would there then be common area for everything or are you just gonna, you see what I'm saying? If you're deeding over a footprint to Party A and a footprint to Party B, Jeremy, Miles, do you guys have

those discussions? Is this a townhome or is this a single family?

Mr. Murphy: It is coming in currently as a single family PUD setup with the townhome potential.

Council Member Shuttleworth: So when they go to build these or do whatever and sell them and they want to sell one to you and one to Jeremy, how are they going to do that?

Mr. Murphy: They would come back with a townhome plot most likely divided, subdividing with the common area in the center, and it's similar to previous townhome setups where the individual buildings were controlled with a limited common area or full common area.

Council Member Shuttleworth: And Robert what we've tried to do is because we've run into this down on Carolina Beach Avenue South where in the past people have put two structures on a lot and they want to come in and we have a non-conforming lot. At the end of the day they end up with 405 Wilson and 406 Harper and two separate. Right now you have lot 6, right? To do lot 6a and lot 6b, I mean, I think it's a great concept, but we just need to make sure that we're all clear on what we're doing here. We're not subdividing this lot.

Mr. Calder: I think that what we would do when they come in to convert it to a townhome you've seen like on the townhome flats a lot of them have common area and limited common areas and what everybody wants is control of their own space and so they have a lot of limited common areas around one of the two houses or the other and so you don't necessarily have a lot of common area but you have limited common area assigned to each of the two dwellings, which still makes it still lot 6a and you know unit a and unit B on lot 6, but they would be able to be conveyed separately with their limited common area, which as I'm sure you all know limited common area is common area around your dwelling that only you can use.

Mayor Benson: I think the presentation showed it's within or it's below the 40 percent max on impervious surface or for that which is lot coverage, buildable lot coverage.

Council Member Pierce: So with that said, Robert, and I think I like the idea of the single-family look better than a duplex, but would they have an HOA or, I mean, how would that be structured?

Mr. Calder: I wouldn't set it up with an HOA. I don't think there's any need for one because I think each of the two houses can have their own insurance policies and so there's no reason to have any like common areas like an irrigation system, you know, exterior lighting and stuff like that, so I would foresee it as being pretty straightforward where you would basically have control of your one end and someone else would have control of their one end.

Council Member Pierce: I guess I was just trying to wrap. I like the concept but who owns the land? They would own it jointly or one person owns it?

Mr. Calder: Well, it's like common area. That's kind of a difficult question because common area is and limited common area is just a form of common area, so in theory the common area is owned by everybody with equal rights to use. A limited common area is not yours. It wouldn't be simple ownership, but you have the right to basically the sole use of it so you wouldn't really need a homeowners association, I don't think, LeAnn, just because why set one up? You know,

you don't have to. You'll have covenants that say, OK, you can't paint yours green and pink stripes, you know, so you could have some architectural controls and stuff like that but that wouldn't again wouldn't need a homeowners association. You'd have it be an agreement between the two owners as to architectural and stuff like that, and if they couldn't agree then you have an arbitration provision, so I don't think there's any reason to spend the money and effort to actually set up a homeowners association.

Council Member Pierce: It's certainly an interesting concept, I mean, one that I think we might see again.

Council Member Shuttleworth: It's a de facto way of subdividing this lot, and this lot is not conforming to two single-family structures, OK? It's just not. I mean we, Jeremy, I mean, Miles, what's the lot coverage proposed between the two structures and the parking and everything? I mean, I see the setbacks, but we have a max lot coverage of 40 percent. Were we under that there? So we've met all those things. We just don't have the physical space of the acreage to have two separate R-1 lots.

Mr. Murphy: They would need 10,000 square feet of space to divide it into the two R-1 lots.

Council Member Shuttleworth: And this is a de facto way, and this has been the argument coming from the R-1 residents for a long time. You guys are finding a back-door way into subdividing these lots. I do, personally, I think we need to find more ways to get some density, and this one happens to front on two streets so it makes it a little simpler, but it is a, this is, there's no doubt about it when you talk about limited open space, I mean, limited common area that's, you're creating two lots. You're not doing it today, but.

(Someone from audience was speaking inaudibly.)

Ms. Fox: If you're gonna testify, you need to come up to the microphone so we have a record of it, please.

Council Member Shuttleworth: I'm not debating whether there's two units or a duplex or a single family. The difference is in a duplex you either make it a townhome right off the bat and it's still one lot or it's owned by one person. In this instance, we're gonna end up with two owners and somewhere down the road someone's gonna come in and say I just want to subdivide my lot. I want to own my own lot.

Mr. Calder: Well, you just say no at that point. Say that doesn't comply.

Council Member Shuttleworth: Well, that would be this point.

Mr. Calder: Yeah. You have, this situation it is all over right now. You have a lot of these two-unit single structures, wall down the middle, the two-hour firewall, ground to sky, and you have limited common area on both sides of those so it's basically the same situation that you have in a lot of duplexes, you know, on the beach right now, I think.

Council Member Shuttleworth: But not typically in an R-1, and that's been the issue in R-1. I'm not, I'm just telling you guys right now I'm not opposed to it. They put a lot of thought into it.

This is a particular lot that could support it. I'm just saying you're opening up the door to subdivision, non-conforming subdivisions of lots, and if you came to us and said, hey, this is gonna be one owner, they're gonna own both of them, they're gonna live in the front and rent the back and we're not going to subdivide it. We'll give a deed with both properties. OK, but you're not. What you're saying and what that tells me that is you're putting a fence right down between the two, and I get that and I appreciate the creativity, but let's just call it what it is we're actually. At some point we're gonna see a plat subdivide this, whether it's a townhome plat with limited common area, that's fine. That's the only, I just want to make sure I understood what we're talking about.

Mr. Calder: But as a matter of right if they can build the one unit on there, have no space in between them, and so you've still got the two and you can still do the same thing.

Council Member Shuttleworth: No, sir, you'd have to have a townhome, and they would own all the rest of it as common area and you have a common wall and it is a different, it's a townhome plat and this is a footprint so I, and just for the record Robert and I have, we've worked on real estate transactions before so and probably will in the future and I appreciate that, but I do believe what we're, and I'm OK with it. I just want everyone up here to understand what we're talking about because somewhere someone's gonna come in with another one that isn't this clean. It's a pretty clean

Mr. Calder: Yeah

Mayor Benson: And I'm with you, Steve, and the access to both Wilson and to Harper that does lend itself to a stronger argument meets the conditions as the staff, at least as far as the staff is indicated. Ma'am did you want to speak? I noticed you, if you want to come up to the.

Ms. Covington: I think Robert clarified, you know, that if we are not permitted to do this that we can do a townhome, but the intent was always, this was always going to be platted as a townhome with separate units, like Robert said, with the limited common area. My only point is next door CDC has those two very tiny lots that were already subdivided and we really are just trying to keep within the neighborhood. He's got a very small 700-square-foot house facing Wilson and he'll be doing another home facing Harper, and our area is actually larger than those two put together so we're really just conforming to those single families, I mean, that's in the area, which I think will fit in much better than the shared wall option. Thank you.

Council Member Shuttleworth: I like it much better than the shared wall.

Council Member Pierce: I do. Well, we'll wait until he closes up.

Mayor Benson: OK. Any other witnesses for the applicant?

Mr. Calder: If it suited the technical part better, we could have common area along the two sides, you know, and just have limited common area in front so only your driveway you, only you can access your driveways and stairways and stuff like that. So we could put common area in there if it makes you feel any better.

Council Member Pierce: Well, I guess, Robert, for me, what I'm concerned about is not really you guys and who's building it right now but five years from now when two different people own those properties and they come in here to staff and say we need, like exactly what you said, we need this subdivided. I got to sell it, or whatever, you know, and then we're dealing with that five years from now.

Council Member Shuttleworth: We're gonna see a subdivision map shortly, I would guess. Stephanie, you're not owning both these? Is this owned by two separate individuals?

Ms. Covington: Yes, the intent has always been to sell to two separate individuals, just like townhome with a shared wall, but it's not a subdivision plat. It would be a townhome plat with the limited common area. And yes, our intent is to have the fence so that everyone can kind of feel like it is a single family, just like their neighbors. I mean, that's what we really are trying to create. Legally, obviously, it's slightly different, but we are aware of that.

Mayor Benson: All right, any other witnesses? No. All right, at this time I'd like to make a motion to open for public hearing. All those in favor?

Council: Aye

Mayor Benson: Opposed? Members of the public that would like to approach Council? OK, nothing seen, heard, I make a motion to close public hearing. All those in favor?

Council: Aye.

Mayor Benson: Motion passes unanimously. All right, any other questions, the board have any other questions for the witnesses, parties before we deliberate? None heard.

Council Member Pierce: I guess maybe just to comment to staff is when it does come back to you, maybe you know that it will, that you would handle it like you would handle or any other subdivision and then we're not sitting here again talking about subdividing a lot.

Mr. Murphy: We, if it came in under the current zoning ordinance it would not be able to be subdivided.

Council Member Pierce: OK.

Mayor Benson: Miles, PMZ flagged this for something similar to that given that it's under 10,000 square feet and it can't be? Did they discuss?

Mr. Murphy: No, they did not discuss the subdivision. They viewed it simply from, you know, the limited common area townhome perspective that was kind of a base assumption on their part. A subdivision would not be possible under the current zoning ordinance even if they came in and proposed it. They'd have to go through a rewrite of the zoning ordinance for the R-1 zoning district in order to achieve it.

Mayor Benson: OK. Anything else. Council? All right.

Council Member Shuttleworth: I'd make a motion to approve the, get the exact how it was worded in the Council, the PUD, for the CUP for 406 Harper Avenue and find that it meets the seven specific standards as listed in the four general conditions as listed.

Mayor Benson: OK. All those in favor?

(Vote passed unanimously.)

Council Member Shuttleworth: Ms. Fox, did I get it close?

Ms. Fox: Pretty close.

Council Member Shuttleworth: Pretty close.

Mayor Benson: All right. Thank you, guys.

b. Conditional Use Permit: For a 2-unit detached residential Planned Unit Development located at 504 Keys Lane. Applicant: The Pioneer Group NC Inc.

The following were sworn in by the Town Clerk:

The same individuals who were sworn in on the previous matter are still under oath.

Mayor Benson: And at this point and I open the evidentiary hearing. I'd like the Town Attorney to give a brief overview as was already given of a quasi-judicial hearing and maybe jump to the impartiality and bias questions.

Ms. Fox: Yeah, Council, the same instructions, and members of the audience, that I gave previously regarding this evidentiary hearing are in play. At this time, does any member of the board have any conflict of interest to disclose?

Mayor Benson: Unseen, heard.

Ms. Fox: Any member of the board have any ex parte communications to disclose?

Mayor Benson: None seen, heard. Thank you, Noel. Miles?

Mr. Murphy: Yes, sir. Once again, privilege to be up here. We're looking at another residential Planned Unit Development conditional-use permit once again for The Pioneer Group, this time on the other side of town in a different zoning district, but we're gonna approach it from the same perspective. So this time we're looking at 504 Keys Lane, which is a more unique circumstance in the Town. It was established in the 90s with a 15-foot access easement between those three parcels here: 508, 504, and 500 Keys, which accesses off of the right-of-way Keys Lane here off of Lewis Drive, so a bit more of a unique circumstance. This is the current proposed setup for the Planned Unit Development for that lot. Once again is two single-family residences on a lot, which could accommodate and this lot actually could be successfully subdivided into two parcels, but it is unable to do that because it is only accessible by an access easement currently so it, once again if it, to go ahead and address the question that was brought up with the last one, if they came in and asking to subdivide it the answer would be no

because it does not front a public access and a lot would not be able to be, it would create two non-conforming lots because they would not have road frontage, so we would not further perpetuate the establishment of that access easement to two more lots as opposed to the three that are currently depending upon it. In this case, the applicant has worked with the Town as well as the adjacent property owner at 500 Keys Lane to establish a 20-foot-wide access and utility easement here since they will need, the Town staff determined that in order to accommodate the density here we need to see a road that was wide enough to permit two-way traffic to make sure that the 508 parcel was still accessible in addition to accommodating the increased density on the 504 parcel here. There will be, this will not affect the 15-foot-wide access easement that is pre-existing. They'll simply be an additional 5 feet agreed to by 500 Keys Lane, who we have been in contact with as an agreement and is in contact with The Pioneer Group as well, as well as 504 Keys Lane. Moving on, so this is an old map, but the landscape buffer still remains the same and that's what I wanted to highlight here. They're proposing the 5-foot landscape buffer around everything with the portion of the lot which contains the driveway and is going to be fronting the 20-foot easement, so otherwise the property will remain very much the same with a 10-foot rear, 10 feet on the side and we'll be looking at 32 feet from the property line, but a little will be a little bit tighter to the utility and access easement that is proposed. PUDs are permitted in the R-2 zoning district. They are, have to have to meet the residential max density, at which this parcel does, and they are a conditional-use permit. So once again, take some photos so we can put ourselves in the situation. This is looking down unimproved Keys Lane from Lewis here to give you an idea of where we're sitting. At the far corner of Keys Lane here if you turned left and look down the easement this is what you are looking at. The green arrow is to try and demonstrate that the, as you can see down below, the easement is actually running up to this fence planted here. This is the edge of the property line and will extend 20 feet from that fence out towards the current established 500 Keys Lane as well towards 504 Keys Lane that you're seeing the proposal for. Additionally this is 500 Keys Lane here and this is 508 Keys Lane down the road, and you can see the access easement very, very clearly utilized by 508 Keys down there. The density falls within the R-2 zoning requirements for and the proposed homes will fall the setback for the first general condition. The safety of all properties will be improved by updates to Keys Lane and the access easement. The proposed CUP meets all the required conditions, and they are not asking for any waivers or modifications. The proposed residences will conform with the neighboring properties of single-family homes being the only allowable by-right use in the R-2 Zoning District and the desired future land use of residential include, the Residential-2 is primarily single-family only units, and this falls in line with that. The position is the general standards, the specific standards, ingress and egress will remain via Keys Lane and the access easement. The access easement will be expanded to a private access and utility easement for and 20-feet width on 504 and 500 Keys to provide full two-way traffic as well as utility access to 504. The parking will be based on the number of bedrooms, three to four bedrooms per unit with three parking spaces required, and will be located outside the easement contained on the property. Refuse, trash is currently delivered to Lewis for standard pickup, and that will remain the same. Utilities will be provided by Duke in the Town and will be through the proposed utility and access easement. Retaining stormwater on site is a requirement from staff given that there are no stormwater utilities on Keys Lane or through that access easement. There will be a minimum of a required 5-foot landscaping buffer which you saw was featured on the northwest and east portions of the property that were not fronting the easement. There are no signs proposed to the residential Planned Unit Development, and as you as you saw earlier they meet the proposed setbacks and the minimum lock coverage requirements, maximum lock coverage requirements.

Mayor Benson: Reference to stormwater, Miles, what's the method to capture it? Is it trenching or?

Mr. Murphy: That would be handled upon actual application of a building permit where they were gonna be reviewed by staff in the Stormwater Department.

Mayor Benson: With some recommendations back to.

Council Member Pierce: Can you pull up an aerial of that for us to see?

Mr. Murphy: I can, I have the one image from the beginning I can, we can go up on here and actually look it up if you'd prefer that.

Council Member Pierce: No, I just mean like Google Maps or something. I mean, I know that Steve and I went out on Lewis Road on a couple months ago and, oh you got one? And there were some people there that had some issue with stormwater in that area. Just kind of curious where that is in relation. You can't zoom out. I got it right here.

Mayor Benson: The historical flooding in that area.

Mr. Murphy: There are some concerns of stormwater in the area that have been proposed by residents, but when 500 Keys Lane came in for theirs they were required to retain all stormwater on site, and we have not heard substantial issues since that at the end of construction there, and the same will be required for the establishment on 504 Keys, that they must maintain all stormwater on site, or retain.

Mayor Benson: That was what jumped out of me when I was reviewing this. Council?

Mr. Murphy: And just to clarify, staff does support the approval of with the condition that the new 20-foot utility and access easement between 504 and 500 Keys Lane is established before any building permits are issued, and in addition to that if I did not mention it they, Keys Lane is going to have as well as the access easement are both being improved to a 6-inch gravel base. The Town will take over maintaining Keys Lane as it is a public right-of-way, and the maintenance of the easement, both the 15- and the 20-foot easement, will retain with 500 and 504 for the full 20 and the one-third division for the existing 15-foot access easement between 508, 504, and 500 Keys Lane.

Mayor Benson: So if I understand there's really two conditions for approval, and that's the utility access to a utility easement and improving Keys Lane

Mr. Murphy: Yes, sir.

Mayor Benson: OK.

Council Member Pierce: Explain to me taking over the road. Are we maintaining that now?

Mr. Murphy: Keys Lane is currently unimproved, so we are not maintaining it. Once the gravel

base has been put in place, we will see that it is maintained so that we have safe access to the properties.

Council Member Pierce: So, explain that to me because I ran into that with another property owners here in Carolina Beach, and the road had to be brought up to Town standards and it wasn't gravel.

Mr. Murphy: In this case, this is what staff came out of TRC. This is what fire and utility said was the minimum that they wanted to see for Keys Lane in order to make their access for both public utilities and safety for sufficient, and that's all that was required of the applicant. I think if they were concerned about greater density going back into that area that they might have required the full improvement.

Council Member Pierce: I guess don't I understand why it's not a private road.

Council Member Shuttleworth: I don't think that was really the gist of where she was headed with that question since the same one. It's great that you got 6 inches of gravel and you went from 15 to 20, but why would the Town take over maintenance? I don't.

Council Member Pierce: Well, that's kind of what I was gonna politely say.

Council Member Shuttleworth: You know, we can ask them to have a 6, a 20-foot wide and gravel, but why would we want to take over maintenance? Just curious.

Mr. Murphy: We're not taking over maintenance of the easement. We're just going to continue to monitor a public right-of-way, which Keys Lane is.

Mr. Parvin: There's two pieces here. There's one as the public right-of-way on Keys Lane, which the Town will maintain. It will be approved at 20 feet. And then there's the private access easement that was done years ago under our previous code.

Council Member Shuttleworth: So there's two parts to Keys that we're talking about. One is the part that comes off of Lewis?

Mr. Parvin: Yes, sir.

Council Member Shuttleworth: And that's what the Town is gonna maintain?

Mr. Parvin: Yes, sir.

Council Member Shuttleworth: OK.

Council Member Pierce: And not, OK.

Mr. Murphy: I apologize for the confusion.

Council Member Pierce: And you mean and maintaining the standard that it is now?

Mr. Parvin: Once it's improved to a 20-foot with 6 inches of gravel we will maintain at that standard or we may pave it.

Council Member Pierce: So you're saying the Town might pave it?

Mr. Parvin: The just the public right-of-way portion.

Council Member Shuttleworth: Not before you pave Carolina Beach Avenue.

Council Member Pierce: Well, let's don't even talk about it. Let's don't even talk about paving it right now. What's on my mind I'll bring to you later. It's not about that.

Mr. Murphy: It is not part of the proposal at this time. The only requirement is the 6-inch gravel base on Keys Lane, which is a public right-of-way that the Town already does maintain and will continue to maintain in this new circumstance. We are not taking over the maintenance of a private access and utility easement.

Council Member Pierce: I certainly wouldn't expect to see it paved either.

Mayor Benson: You addressed my one thing. With that, the applicant may now present evidence and legal arguments in support of the request, sir.

Mr. Calder: Thank you again, I appreciate that. It's like Miles said. It's a little bit more complicated because we have the access easement that we need to get, but that is in process right now with the adjacent landowner and again it's like our similar situation. We've got a lot that we could build a single on, but we would rather have the two because it's more in fitting with the general vicinity and stuff like that. Are there any questions of me at this point?

Mayor Benson: Council? No, sir.

Mr. Calder: All right. Thank you so much for your attention. Appreciate it.

Mayor Benson: Does the applicant have any other witnesses to call? Unseen. OK. With that, I make a motion to open for public hearing. All those in favor?

Council: Aye.

Mayor Benson: Members of the public. Yes, ma'am. Please state your name and address for the Town Clerk.

Ms. Miller: Jamie Miller, 500 Keys Lane. So I'm the resident that lives next door to the proposed house and I'm just trying to understand the impact.

Ms. Fox: Mayor, mayor, this individual wasn't sworn in so you'll need to come and offer your.

Ms. Miller: Oh, I'm sorry. It's public comment.

Ms. Fox: You'll need to be sworn in. It's an evidentiary hearing.

Mayor Benson: I'm sorry. I was looking at the clock. Thanks.

Ms. Miller: Yes, so I rent the house, the only house that is next door in the photograph there, so I guess my concern is that tenant I've lived there since the house was built and sort of the main house that will be affected I think by the building, so I'm trying to understand, and maybe this isn't the forum, but in terms of the construction process the length, the hours, kind of the job site, and the traffic kind of going back and forth. I work from home, a lot of time outside, so I'm just trying to kind of brace for the impact of this if this gets approved. I don't know if that's a question for these guys.

Mayor Benson: I'll bring that up when we go back to staff and closing in terms of ordinances that apply, and I think you'll find that we have those that deal with the work hours.

Ms. Miller: I'm just trying in terms of going up and down the road because it's the little house there and go back and forth, you know, is that like where will they basically, where's the construction in terms of the parking? There's no, like, it's kind of a weird situation, as you saw, and there's the dirt road that just goes by, so at one house, yeah, so there's an empty lot, you know, to the right that is owned by the landlord and then the one to the left, so I'm just trying understand where exactly all the equipment and construction is gonna be situated.

Mayor Benson: When we deliberate I'll go back to Miles and ask how might this look in executing the build.

Ms. Miller: OK. Thanks. Yes, sir. I wasn't sure if this was the forum or not.

Mayor Benson: Thanks for coming out. Appreciate that. Any other member of the public? Unseen, heard. All right. With that, I make a motion to close public hearing. All those in favor?

Council: Aye.

Mayor Benson: Passes. All right. Let's take it back to staff. Council?

Council Member Pierce: Did you have any comments on her question?

Mr. Murphy: Absolutely.

Council Member Pierce: OK. Jump in.

Mr. Murphy: So basically any sort of construction, whether it is residential or commercial, was held by specific ordinances in regards to the hours of operation: Monday through Friday, on Saturdays, and no operation on Sundays. The Building Inspector as well as the zoning officials and the Stormwater Department will be on top of the maintaining clear use of that access easement because first and foremost it is so that 508, 500, and 504 all can access Keys Lane and go to and from it. In regards to noise and this the timeliness of the construction process, unfortunately it's something we only have so many regulations over and we rely more on the builder to be expedient in regards to their process, but there's no indication that this would be anything more than a standard development for a single-family home and as you can see

around Carolina Beach that those go up fairly quickly and with very little disturbance to the surrounding neighbors provided that everyone is a good neighbor through the process, and the Town is always there and willing to listen to any complaints and happily mediate any situations that may arise.

Mr. Parvin: Once the project is complete, there will be a building or the project is if the project is approved and then they'll come back in for a building permit, the building permit will be posted on site and that building permit will list construction hours, which as Miles mentioned is Monday through Friday from 7 AM to 6 PM, Saturdays from 9 to 5, and no operations on Sunday, so that is your time for that you will have your noise impacts from construction.

Mayor Benson: So you'll know where to find it, and we can help you find, locate the code where these are specified, ma'am, if you need that after. Questions for Miles, Council? I think you addressed the.

Council Member Shuttleworth: I had one. Go to your one that showed the landscape buffer. This is just a personal pet peeve. We're doing single family, single family, single family on that easement, but because they have to go through this particular process for a CUP it requires a landscape buffer and generally, Miles, when we've talked philosophically you would require a landscape buffer when you have a dramatic change in use, like if you were gonna build six units back there in one building or you were gonna be the difference between a commercial property and a residential property you want to buffer the uses between the two. In this case, I think it's a little onerous on the applicant to ask for an additional landscape buffer when it's between two residential, so if they've agreed to it, OK, but I would ask Council down the road to work with Planning and look at those. Well, it's just when you have a residential to residential do we really I mean most people are landscaping but what you have to do is it's a very specific requirement on the thickness that they have to put up, the amount of shrubbery or trees they have to put up, and it's just the difference between my house and your house. It's not a gas station and an apartment building or an apartment building next to a house. It's just a house to a house and, you know, at this day and age when these folks are trying to deliver something that may be affordable, I applaud the creativity on both these applications, you know, if we have needs to do it. I mean, if they've agreed to it I'm not gonna certainly tell them they don't have to. I just pointed this out to Council and staff that in these particular cases, it seems a little onerous. I understand why you want to do it when you're changing from zonings and uses, but that's my soapbox.

Mr. Murphy: I can't comment on the difficulty in regards to meeting it, but the way that ordinance is currently written any conditional-use permit is required to have it. It can be waived by Council and they are not requesting a waiver, but should you feel that it not be necessary you're more than welcome to add that. However, the landscaping would be, obviously trees are welcome in a residential neighborhood just as much and the applicant is willing to put in the landscape buffer as required, and we as staff always like to see landscape buffers when required.

Mayor Benson: Let me get a comment from you, sir. I noticed, we were just gesturing, just to sort of close it out with that particular stipulation.

Mr. Calder: I am not as familiar with the site as Stephanie is, but I know that there is already a

little grove of oak trees between 500 and 504, and it would seem like a shame to take back down to replace it with something else that meets that the code, so it might be just as well to say remove the 5-foot landscape buffer and let that be handled in the actual permitting planning process so that would be asking for that waiver which has not been on the schedule, but we would certainly like to have the ability to keep that grove of oak trees along that one lot line.

Council Member Shuttleworth: Are they mutually exclusive? Are you saying you'd have to take the oak trees out if you did the landscape buffer?

Mr. Calder: Steve, I don't know.

Council Member Shuttleworth: I just saw that flash up real quick.

Council Member Pierce: I mean, would that might count as the buffer?

Mr. Hardison: Yeah, any existing landscaping we encourage to keep and it does, you do get credit.

Mayor Benson: So you might have to take some but add more. OK.

Council Member Pierce: is that good?

Mr. Calder: Thank you.

Mayor Benson: Thanks. Appreciate that. So back to Miles.

Council Member Shuttleworth: Well, I believe as a community we'd be more interested in keeping mature landscaping work once you can understand those type lots.

Mr. Murphy: And we definitely agree with that as staff. 300 Harper was just approved with their final landscaping buffers and there's some very young trees that meet the requirements and will grow to be beautiful, I'm sure, in many years, but mature trees are always welcome.

Mayor Benson: Hey, Miles, I think what I'm getting the sense of is we got a motion statement, but there are two conditions, one of which is to improve Keys Lane 20 feet gravel and the access becomes utility access upon approval and waiving the 5-foot buffer. Council, am I missing anything?

Council Member Pierce: I don't think we're waiving that buffer.

Mr. Murphy: The waiver is not a request.

Council Member Pierce: We're not waiving the buffer. We're crediting.

Mayor Benson: OK. Great. All right.

Council Member Shuttleworth: Here's what I would try to do since Ms. Fox was kind enough to give this to us, I would make a motion to a, based on the testimony and record before us, I move

to find the CUP application meets the seven specific standards and the four general standards with the conditions that are outlined in staff's presentation.

Mayor Benson: All right. We're clearing those. All those in favor?

(Vote passed unanimously.)

Mayor Benson: All those opposed? 5-nothing unanimous. Yes, Ms. Fox has been very fastidious. Check the context on that, Jay. You're not doing anything. You got a phone. Did I use that right? All right. We have one more conditional-use permit for consideration and that is.

Council Member Shuttleworth: I would just compliment that those, that's great to see some creativity on getting some density. Good stuff. Not sure I like that backdoor subdivision stuff but.

Council Member Pierce: He didn't mean it like that.

Mayor Benson: Thanks.

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

The following were sworn in by the Town Clerk:
Applicant's Architect George Pinkston, Town Planner Miles Murphy, Planning Director Jeremy Hardison, and Interim Town Manager Ed Parvin.

Mayor Benson: At this time I open up the evidentiary hearing. I would like the Town Attorney who's already given the overview to the questions on impartiality and bias.

Ms. Fox: Yes. Mayor, Council. Same rules apply that we've discussed previously this evening. At this time, does any member of the board have any conflict of interest to disclose?

Mayor Benson: Nothing seen. Nothing heard.

Ms. Fox: Any member of the board have any impartiality or ex parte communications to disclose?

Mayor Benson: Nothing seen. Nothing heard. Miles, once again. Three times is a charm.

Council Member Pierce: Breaking you in tonight.

Mr. Murphy: I'm two for two so far, so we'll see how we go here. So before you we have a conditional-use permit for a Business Planned Unit Development. We're moving away from the residential stuff. This will take place at 1012 South Lake Park Boulevard. What you can see here in front of you is 1012 South Lake Park Boulevard. The applicant is Ralph Roof, the owner of this property. This is the Uncle Vinny's property, if that helps you with the familiarity of where we're looking. So here we have some views of the current status of the property and then we have the adjacent property, which is a common area of the Carolina Sands subdivision, as well as 1006 South Lake Park Boulevard, which I believe is The Spot now. Yes. I haven't been there yet, but

new business coming to Carolina Beach in 2019. So Business Planned Unit Development is permitted in the that's, sorry that should say the Neighborhood Business Zoning District, as was the decision made by Town Council back in October, I believe it was, to allow the Business Planned Unit Developments in neighborhood business as you see here and provided that they meet max density and all the other zoning requirements. This is the previous design that Planning and Zoning received. This was not received favorably, and since then the applicant has come back with a new proposal very much substantially increasing the landscaping buffer, which was the big concern of Planning and Zoning as the applicant was requesting a waiver of the majority of the landscaping buffer. With the flushed out proposal now with additional landscaping, they still meet the minimum parking standards of 27 spaces as well as the other minimum zoning standards, and just to give you a clearer indication, so this is the previous landscaping insight plan proposal on the left. The blue boxes highlight where the landscaping has been substantially increased, as you can see on the new plan on the right just so we get an idea that they have. The proposal remains the same in regards to size, spacing and I believe we lost one parking space to try and make this accommodation, but otherwise the proposal, as I said, remains for the most part the same. They plan to handle deliveries in the off hours, as you can see here with this rectangle here through the front parking spaces. These would be handled in the morning prior to operation of either of these businesses such that would not conflict with the minimum parking standards. There is recommendation from staff to improve the access to Lake Park Boulevard as well as provide ADA accessibility in regards to handicap parking to this structure, and fire recommended a minimum traversal of for, to have fire access to the rear of this property as already exists, so they're maintaining that as well. I can go back to the new site plan so you can take a look at it. They are still requesting a waiver to a portion of the landscaping buffer. That is this portion here adjacent to the proposed structure. As you can see, it shrinks down from a 10 feet in width to 7 and a half feet in width, as that is the only way that their current design could be accommodated, so they are asking for a waiver of 2 and a half feet of the landscaping buffer on the north portion of the proposed two-unit Business Planned Unit Development. And so in regards to the general conditions, the density falls within the standard neighborhood business requirements, and the proposed structure will call the setbacks a waiver till the 10-foot landscape buffer is required for the current proposed structure to be built, but as I said it is only 2 and a half feet of the landscaping they're now requesting be waived. The proposed CUP does not meet all the required conditions and specifications simply because it does not fully meet the landscape buffer, as it is missing or is requesting a waiver for 2 and a half feet on the north portion. The proposed structure will conform with the current neighboring bit properties in regards to the neighborhood business zoning district, and the future land use of the area is Mixed Use 1, which includes single-family, duplex, and commercial uses that are lower intensity such as restaurants and commercial services in retail. The specific conditions for the property ingress and egress will remain via South Lake Park Boulevard, and parking for the design will accommodate two-way traffic and meet minimum zoning standards. Parking will be contained on the property. Trash will be collected in a refuse container and handled via South Lake Park Boulevard. Utilities will be provided by Duke in the Town, and they're already existing through the property. There is no access easement. I apologize to that typo there. There will be new parking improvements which require the grading of the lots such that no stormwater collects on the rear of the property, and all stormwater is directed towards South Lake Park or is retained on site. Stormwater in staff review was very specific that this will be a requirement whenever they come in for the building permit that they will not see the current situation, which is a bit of a pond back there continue to develop. They want everything graded properly. There is a 10-foot landscape buffer required for this type of development. The

applicant is requesting a waiver of 2 and a half of the landscaping buffer. The 2 and a half feet on the north side of the proposed property to accommodate the size of the proposed second structure. There is no signage currently proposed at this time, and any sign will have to meet the current standards placed on all commercial signage in the Town of Carolina Beach in regard to setback and sizing parameters for that second proposed structure, and there is no required yard or open space beyond the general zoning requirements for a Business Planned Unit Development, and they are meeting the minimum states between the structures on the adjacent property as well as the current with the current building on the property. They are meeting the required front and side setbacks, and they are very, very far away from the rear setback in that case. And the requirement for a side setback is actually 10 feet due to the landscape buffer, but as I said they're requesting a 2 and a half foot waiver to meet just the general zoning standard of the 7 and a half feet and not have to fulfill that full 10-foot along the north portion of the proposed structure, but that is the only area that staff believes they are now requesting the waiver, as opposed to the previous design where there were a lot of gaps in the landscaping. Staff does not fully approve the business conditional-use permit, as it does technically require a waiver of the landscape buffer, but we do believe that the proposal has vastly improved from what was seen from Planning and Zoning. All yours, sir.

Mayor Benson: Planning and Zoning kicked it back to make sure that there was buffering on the west side from one point. Is that right?

Mr. Murphy: Planning and Zoning kicked it back because they did not support the waiver of the landscape buffer required for that proposal, and the applicant has since come back in with a new proposal which predominantly meets the landscaping buffer, but as I said it still does not meet it entirely and staff would not recommend the approval.

Council Member Pierce: So that doesn't trigger it back through Planning and Zoning again?

Mr. Murphy: It was not a substantial change to the actual design of the proposed conditional-use permit, and they still met the minimum standards for parking, which the only thing that really changed was the nature of the parking. It did not change the drive aisles. It did not change the size or location of the structure. Everything else remained the same. Landscaping improvements were the only thing added.

Mayor Benson: Anything else, Council? OK. The applicant may now present evidence and legal arguments in support of the request, sir.

Mr. Pinkston: Good evening, Mayor, Council. My name is George Pinkston. I represent Ralph Roof. My residence is here on Pleasure Island, but I have an architectural planning firm in Wilmington, North Carolina. With all due respect, I reiterate everything that Miles just shared again with us, that we have submitted this before. There was landscape issues that we were not meeting. We've made an effort to meet that and to be more specific about what seems to be unapprovable by staff is that the 2 and a half foot buffer we are asking for a variance for only occurs where a restaurant is adjacent to restaurant on the north side, not the portion that is adjacent to the residential on the rear of the of the north side, so we are maintaining the 10-foot buffer or trying to at all locations at the perimeter of the property, including the front of a 10-foot buffer that is required, and there is an amount of landscaping now between The Spot that building and there the adjacent property line, so there is greater than 7 and a half foot of

planting there, but it is restaurant to restaurant property and commercial so. My only other point is that I'd like to make we have met the requirement of the number of plants in each linear footage of the entire perimeter, so even though we may have less area for a larger plant or tree to grow that may compromise our structure we've made them closer together in the portions where we could to accommodate the requirement of the number of plants, so if you have any questions I am here.

Council Member Pierce: Yes, there was just a question. Can you kind of help me visualize a little more the plan for this property? I know there's two restaurants. What is the addition to?

Mr. Pinkston: There will be a new facility that will operate entirely independent.

Council Member Pierce: So it would be another structure on that property?

Mr. Pinkston: Yes, ma'am.

Council Member Pierce: And kind of like what we talked about before, does it go with it, is that one plat that whole area, or is it two lots or it's just one piece of property?

Mr. Pinkston: It's just one plat and I believe correct some of the technical parts, but we were asking for approval in a previous meeting that allowed two businesses to be on one property.

Council Member Pierce: Right. I do remember that text amendment.

Mr. Pinkston: OK.

Mayor Benson: This is Crabby Jack's, correct proposal?

Mr. Pinkston: Yes, sir.

Mayor Benson: OK. Yeah, Miles, regarding the buffering, I've no recollection that we went through this on a CUP back in October that there's no defined spacing between a tree or a shrub, like each has to be 4 feet apart. It's more number of you got to have 10, you can group them in places, so you've got a little bit of flex in terms of applying that.

Mr. Murphy: There's flexibility. We're more concerned about the number of the trees and the understory and the overstory and the shrubs more so than we are about the specific exacting measurements of their location.

Mayor Benson: And we discussed that explicitly during that, I think it was the 401 North Lake Park Boulevard project.

Mr. Pinkston: And to add, in most cases where there is curb cut and access you have to rearrange an even amount of plantings because of entrance and exits, so it does end up in medians on either side of the turn ends, so you have to put them closer together in those planters anyway. So we've met it on each side.

Mayor Pro Tem Bridges: So, Miles, adding another structure of the same lot, how are they gonna

have enough parking for those two restaurants? When it was The Twisted Lime and Uncle Vinny's, it was hard to find a parking space.

Mr. Murphy: Well, unfortunately the popularity of a restaurant does not take into account in our zoning ordinance. They did meet, as you can see from the table on your monitor, the minimum parking requirements based on the calculation of indoor gross floor area and outdoor or patio gross floor area for both of the individual structures, which was a minimum of 27 spaces and they have provided that they may, you know, need more from a popularity basis, but by zoning standards they do meet the minimum.

Council Member Pierce: So you're saying it's based on square footage and all three properties have the parking requirement, meet the parking requirement?

Mr. Murphy: The one property with the two structures.

Council Member Pierce: Well, all three of the structures.

Mr. Murphy: Two structures.

Council Member Shuttleworth: That's what's confused us when we first looked at this. The Spot is on a whole separate lot and it's nothing to do with this, so all we're looking at is the one new building on Uncle Vinny's lot. That's it, and what I think Miles is telling us is that the new structure at Uncle Vinny's meets the parking requirement. We can't throw in The Spot. This is why, that's a whole different.

Council Member Pierce: And the spot meet its on its own? And that's kind of what I was just asking him about the three properties.

Mr. Pinkston: We're talking about a 700-foot structure, too. I mean, it's not a, it's very small new establishment. We only need spaces for what we're adding to.

Mayor Pro Tem Bridges: Does it have seating inside or not?

Mr. Pinkston: Very little.

Mayor Pro Tem Bridges: Very little.

Council Member Garza: 700 square feet, you said?

Mayor Pro Tem Bridges: That's small. Y'all probably have more than that at the doughnut shop.

Mayor Benson: Does the applicant have any other witnesses to call, sir? OK.

Mr. Pinkston: Thank you.

Mayor Benson: All right. With that, I make a motion to open for public hearing. All those in favor?

Council: Aye.

Mayor Benson: Motion passes. Members of the public? Nothing seen. Nothing heard. I make a motion to close public hearing. All those in favor?

Council: Aye.

Mayor Benson: OK, Council.

Council Member Shuttleworth: Miles, did I hear the applicant say, or the gentleman that spoke for the applicant, that there is a landscaping buffer on the south side of The Spot property already that would marry up to this proposed?

Mr. Murphy: There is landscaping present. I don't believe there is a buffer per se, as it would not have been required by a general business being put on a commercial property. One structure would not have necessitated, as you said.

Council Member Shuttleworth: There's some space between the structure and the property line that may be landscaped to some level.

Mr. Murphy: Yes, sir.

Council Member Shuttleworth: Is not one of the concerns that we heard from Carolina Sands is that the existing structure on that building, if you put it back up, the existing structure hat was so far over that it had no landscape buffer behind it? That's always seemed to me when I heard from Carolina Sands is we already granted a huge variance on landscape with the big, big building. Right?

Mr. Murphy: And that was one of staff's concerns when it came through and why it was not recommended and why the original proposal.

Council Member Shuttleworth: There's nothing he can do about it at this point because the building is already there.

Mr. Murphy: Yes, sir.

Council Member Shuttleworth: There's no more room.

Mr. Murphy: And they came back with a proposal that vastly beefed up the landscaping in all their theoretical areas except for the portion.

Council Member Shuttleworth: That they can't do from the first time around.

Mr. Murphy: Yes, sir.

Council Member Pierce: I know that when we passed the text amendment just a couple of months ago we were pretty adamant about it having to meet the criteria and not granting waivers, but allowing the text amendment if somebody could meet that restriction.

Mr. Murphy: I'm not sure I entirely understand your question.

Council Member Pierce: Well, I mean, it's not a question. It's a statement.

Mr. Murphy: OK.

Council Member Pierce: The statement is when we approved that text amendment, you know, we talked about not allowing variances from the conditions.

Mr. Murphy: Yes, ma'am. Yes, ma'am.

Council Member Pierce: I do know that.

Mr. Murphy: Not allowing waivers to a landscape buffer has been a big concern of staff's with the onslaught of conditional-use permits in the last several months, and that continues with.

Council Member Shuttleworth: Miles, it would be no different for me on this one than the last one, and in this particular case they beefed up, compared to the exhibit on the left to the one on the right, they acquiesced to make sure that they were covering the residential buffer behind them, which is where you really have that conflict. If he's backing up to another restaurant on the right and asked for 2 and a half feet, I'm not sure that's the end of the world. There's nothing we can do to create the problem or rectify the problem on the south side where they've already had potential property line disputes and patio disputes and landscape areas that have been. There's just nothing we can do about that today. So, I mean, I don't, if he didn't come with any proposal there's nothing that's gonna improve that, right? I think they made a yeoman's effort.

Mayor Benson: And that's what stood out to me is when I asked the question that the before and then the P&Z it met, didn't pass muster initially and came back with something that was significantly improved and enhanced. Looking left to right. JoDan?

Council Member Garza: I don't know. I'm tossed up between it. I kind of agree with Steve. Business is business side. I don't see really much of an issue.

Mayor Benson: Me neither, frankly.

Council Member Pierce: I agree with JoDan, and I'm kind of on a toss-up, too, because I understand Steve's point, but I hate when staff does not recommend a project that we'd approve it. You know, that's problem for me personally.

Council Member Shuttleworth: Well, that's interesting because what I was gonna ask Miles about that. The inference then would be you would only recommend approval if it meets 100 percent of everything, and sometimes I think you have to apply some common sense, and in this particular, if you look at the exhibit on the left where they have these blue boxes.

Council Member Pierce: He's not saying you didn't.

Council Member Shuttleworth: I'm not saying you didn't, no. Jeremy didn't. You have the blue boxes on the left and they went to the applicant and said we can't recommend that for approval, and the applicant came back and said let me put more stuff in those blue boxes and I'm down to 2 and a half feet behind a building on an adjacent piece of property that has the same use. For me, I would be more concerned if we weren't able to help the neighbors to the west. You don't want parking spaces right behind some guy's house, and they put the landscape buffer back there and pull the parking forward, draw a few spaces.

Mayor Benson: I always like the adage that staffs and committees make recommendations, not decisions. Elected officials do. We legislate, so I mean I, from the jump the change in the proposed buffering met my personal. I'm satisfied with it. So, all right. I'm gonna attempt. You have a motion statement with. I can go ahead and do that.

Council Member Shuttleworth: Ms. Fox was kind enough to prepare something for us to read.

Mayor Benson: I know. Yes, and I read it. With that, I make a motion to approve the conditional-use permit in accordance with the draft grant order and that the proposal meets the seven specific standards and the four general conditions if developed according to the plan as submitted and approved and with a waiver of 2 and a half feet of the required landscaping buffer along the edge of the proposed structure on the north side of the property. All those in favor?

(Vote was 2-3 with Mayor Pro Tem Bridges, Council Member Pierce, and Council Member Garza voting nay.)

Mayor Benson: The motion does not pass.

d. 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

This item was moved to the regular meeting on Tuesday, January 14, at 6:30 PM in Council Chambers.

3. NON-AGENDA ITEMS

a. Town Manager Ed Parvin gave a brief list of upcoming meetings and events and said a schedule of meetings for 2020 and a budget schedule would be available by the end of the week.

Council Member Garza mentioned the need to finish the one-year evaluations for the staff that works for Council.

4. ADJOURNMENT

a. Mayor Benson made a motion to adjourn at 7:40 PM. Motion passed unanimously.

Approved 1/14/2020

Kimberlee Ward, Town Clerk