

CAROLINA BEACH

Planning and Zoning Meeting

Thursday, October 14, 2021 - 6:30 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Chairman LeCompte called the meeting to order at 6:30 PM.

PRESENT

Chairman Deb LeCompte

Vice Chairman Wayne Rouse

Commissioner Jeff Hogan

Commissioner Melanie Boswell

Commissioner Ethan Crouch

Commissioner Todd Piper

ABSENT

Commissioner John Ittu

ALSO PRESENT

Planning Director Jeremy Hardison

Planner Gloria Abbotts

APPROVAL OF MINUTES

1. September 9th, 2021 – P&Z Minutes

ACTION: Motion to approve the minutes as written

Motion made by Vice Chairman Rouse, Seconded by Commissioner Hogan

Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Motion passed 6-0

STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported the following statistics for the past month:

Permitting

- 40 permits (renovation, repair, grading, additions, fence)
- 20 residential new construction
- 13 certificates of occupancy

Code Enforcement

- 12 complaints received
- 12 resolved

Vice Chairman Rouse asked if the new Code Enforcement Officer has started. Mr. Hardison said yes.

Town Council and Other Updates

- Landscaping – considering adopting at November Council meeting
- 402 North Lake Park Boulevard Special Use Permit extension – September Council – granted
- Minor Planned Unit Development standards/non-conforming – Council workshop
- Text amendment for Mixed Use Commercial-Residential – September Council – passed
- Parking – Council October workshop
- Planning and Zoning Appointments – November
- Conditional Zoning Pickleball Court – applicant withdrew project
- Variance: 511 Harper Avenue – September 20 – granted
- Variance: 206 Lake Drive – September 20 – denied

Demos in Progress

- 407 Sumter Avenue
- 207 Florence Avenue
- 1018 Carolina Beach Avenue North
- 500 Alabama Avenue
- 318 Goldsboro Avenue

New Businesses

- Butts N Such – 800 South Lake Park Boulevard
- Edward Jones – 1206 North Lake Park Boulevard
- Carolina Building Specialists – 1322 North Lake Park Boulevard, Suite 1
- O’Reilly Auto Parts – 1401 North Lake Park Boulevard

Coming Up

- The Vault – 612 North Lake Park Boulevard
- 217 Myrtle Avenue – restaurant

Commissioner Hogan asked if the pickleball court applicants will have to remove the court. Mr. Hardison said the court was not finished and is a colored patio at this point. He said staff is still talking to the applicants to find out what their plans are for the lot, but they are not going to pursue a pickleball court.

PUBLIC DISCUSSION

ACTION: Motion to open public discussion

Motion made by Chairman LeCompte, Seconded by Vice Chairman Rouse

Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Motion passed 6-0

No one requested to speak.

ACTION: Motion to close public discussion

Motion made by Chairman LeCompte, Seconded by Vice Chairman Rouse

Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Motion passed 6-0

DISCUSSION ITEMS

2. Conditional Zoning to consider a Mixed Use Commercial-Residential located at 902, 1000, 1010 N. Lake Park Blvd.
Applicant: Cape Fear Four LLC

The applicant, Cape Fear Four LLC, applied for a Conditional Zoning (CZ) application for a Mixed Use Commercial-Residential project in the Highway Business District. A CZ district allows a particular use to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and the entire community that cannot be pre-determined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property, even though the use itself could. The review process provides for the accommodation of such uses by a reclassification of property into a CZ district, subject to specific conditions that ensure compatibility of the use with the use and enjoyment of neighboring properties.

Mr. Hardison presented the details of The Proximity project, which would consist of 7 buildings, all with a height of 50 feet except for one at 45 feet, with varying combinations of residential units and commercial square footage. The project totals are 261 residential units and 44,111 commercial square feet. Mr. Hardison also reviewed the history of the site, a schematic of what the property would look like, the site plan, and the CZ process. Among the recent changes to the proposed project are:

- Turn lane – eliminated 12 parking spaces
- Reduced the sidewalk on Lake Park Boulevard from 8 feet to 6 feet
- Potential connector to Winner Avenue – changed to pedestrian connection

Commissioner Crouch asked if there was a staff recommendation. Mr. Hardison said there are some unknowns, but overall the project meets the ordinance and is consistent with the Land Use Plan, so from that standpoint staff does recommend the project.

Among the conditions the applicant is proposing for the property is the prohibition of short-term rentals within the residential units. Vice Chairman Rouse asked if this rides with the deed or covenants of the project. Mr. Hardison said it runs with the land and that once that project is approved, those conditions are with that property.

Commissioner Crouch asked if this is enforceable. Mr. Hardison said it can be if it's agreed upon by the

property owner and the Town.

Brian Eckel of 1051 Military Cutoff Road in Wilmington, a partner with applicant Cape Fear Four LLC, introduced his team members. He said they are part of a local company that just celebrated its 20th anniversary and employs 32 people who live in New Hanover County. He reviewed other projects they have developed, including Publix Commons at Federal Point. Mr. Eckel said he and his team members have solicited community input about this project via numerous opportunities and incorporated many of the suggestions into the plan. He reviewed project milestones, which include more community meetings to review the design next spring, construction beginning on September 1, 2022, and doors opening on April 30, 2024, which will coincide with the Town's 100th anniversary.

Mike Brown of 1922 Brookhaven Road in Wilmington, a partner with applicant Cape Fear Four LLC, spoke about the Town's 2020 Coastal Area Management Act (CAMA) Land Use Plan and said the project promotes all 13 goals identified in it.

Sam Franck, who represents the applicant, discussed plan aspects influenced by community engagement and traffic impact.

Jonathan Guy of Kimley-Horn, traffic engineer for the project, gave details about a traffic study being reviewed by the N.C. Department of Transportation (DOT) and Wilmington Urban Area Metropolitan Planning Organization (WMPO). He said the study indicates the development does not create undue congestion on the project intersections, recommends a right-turn lane on North Lake Park Boulevard, and includes analysis of a traffic signal at Winner Avenue and North Lake Park Boulevard.

Commissioner Piper asked how the majority of residents will enter the property. Mr. Guy said it depends on where they are originating. Commissioner Piper said he is concerned that people will enter through the center of the property and that traffic already backs up in this area during the summer. Mr. Guy said people will adapt depending on the time of day, and residents will develop patterns.

Commissioner Crouch asked if the proposed schedule is for the whole project being built at one time. Mr. Franck said yes and that there is no intent to phase the project.

Commissioner Crouch asked what the restriction for short-term rentals will look like. Mr. Franck said the proposal is for a time period of not less than 90 days so there is a clear standard. He said once this is incorporated into the zoning, it becomes part of the Town's code.

ACTION: Motion to open the public hearing

Motion made by Chairman LeCompte, Seconded by Commissioner Hogan

Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Motion passed 6-0

Dan Bell of 1200 Saint Joseph Street, who has lived on the island for more than 25 years, said the Land

Use Plan mentions concerns about growth outpacing infrastructure, and he believes that is what's happening here. He said aging infrastructure and maintenance costs are recognized as a potential threat to the Town's liability. Mr. Bell said the unexpected growth of adding 400 people to our community will affect all infrastructure, especially water. He said the Town is not in good financial condition and has a reserve just above what the state requires for municipalities, which leaves no money for emergency scenarios such as caring for a 70-year-old pumping station. Mr. Bell said the project will also overburden wastewater, stormwater, and traffic, and schools, Police, Fire, and other Town staff will have to be increased to meet the needs of all the extra people. He said he has nothing against the development itself but thinks it's the wrong time for it unless the Town gets its financial house in order well enough to repair infrastructure and take care of flooding on the North End. Mr. Bell mentioned concerns about bicycle safety and encouraged Town officials to sit down with the developers to discuss the hazards of bicycling on Lake Park Boulevard. He also said he would like to see short-term rentals defined as anything less than a one-year lease, not 90 days. Mr. Bell requested that the Commission do more research and postpone any decision on this project for a month.

George "Butch" LeCompte of 307 Charlotte Avenue said he considers a long-term rental to be at least 12 months. He said the project should not allow subletting because then a few people would get long-term leases and act as property managers for those residences. Mr. LeCompte also brought up concerns with the sidewalk width, which he would like to see at 8 feet so bicycles and pedestrians can share it. He said his biggest concern is public safety, but he loves the development personally.

Commissioner Crouch asked if there would be a shuttle for residents. Mr. Eckel said there would be golf carts to drop off and pick up residents from places around the area.

Commissioner Crouch asked if there was any hope for an 8-foot sidewalk on Lake Park Boulevard. Josh Mihaly, landscape architect land planner for the project, talked about the landscape architecture process and said he sees no reason why they couldn't strive to get an 8-foot multi-use path.

Mr. Franck said there's always a risk in the CZ process when proposing a specific site plan to get very focused on small details, but he emphasized that the zoning approval the applicant is seeking now is about uses and density on a large scale. He said the other discussions are healthy dialogue that is encouraged, but operational details are relatively far in the future to figure out and peripheral to the proposal in front of the Commission now for CZ.

Chairman LeCompte asked whether connectivity with Wings had been discussed with owners of that property. Mr. Eckel said there was a preliminary discussion, but there were some concerns on both sides so it didn't go anywhere. He said he and his associates are big believers in interconnectivity and open to it.

Commissioner Hogan asked why less than 90 days was picked as the threshold for what is considered a short-term rental. Mr. Eckel said all of the leases will be one year long, but they want to give tenants the ability to sublease for a minimum of 90 days if necessary.

Commissioner Piper asked if it would be possible to move buildings closer to the street and have parking in the rear. Mr. Eckel said they have studied this and determined that it wouldn't make sense because parking is needed in front of retail.

Mr. Franck said they are willing to include a condition about a commitment to fund a traffic signal up to \$300,000 on Winner Avenue subject to DOT approval.

No one else requested to speak.

ACTION: Motion to close public discussion

Motion made by Chairman LeCompte

Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Motion passed 6-0

Commissioner Crouch said he thinks this is a better project than what they saw a couple months ago and that it looks good. He said he still has concerns about potential utility impacts, what DOT is going to require, and the variance for the landscape buffer.

Commissioner Boswell said she also thinks this is an improvement over the previous version of the project. She said she appreciates the fact that the applicant has taken the community into consideration, but she continues to have some infrastructure concerns.

Vice Chairman Rouse said he is impressed with the project and the applicant's responsiveness and flexibility. He said the applicant has gone beyond what is required in multiple ways, so he plans to vote to allow the project to move forward. Vice Chairman Rouse said the applicant has the right to expect water and sewer services for the project, and he cited the potential for it to be among the biggest taxpayers in the Town.

Commissioner Piper said he is all for the project, thinks it looks great, and is happy with the changes made. He said he'd also like to see a crosswalk at Winner Avenue, and he prefers not to put a number on this and the possible stoplight. Commissioner Piper also mentioned the importance of pedestrian access to Winner Avenue.

Commissioner Hogan said he likes the project a lot and thinks it's a big improvement. He said he's impressed with the applicant's willingness to listen to the people of the Town. Commissioner Hogan said if the applicant had not incorporated feedback into the current version of the project, the room would be full of residents speaking against it. He said he thinks it's going to be a beautiful project and that he looks forward to it.

Chairman LeCompte said she wanted to remind the public that there is a long list of requirements that the applicant will have to meet, and tonight is just one step in the process. She said there will be more

public meetings and time for input. Chairman LeCompte said she remains concerned about the project's impact on infrastructure and traffic. She said she thinks the project has come a long way in the past two months, and she is happy with the direction it's going.

Commissioner Boswell said there is public concern that pool memberships may not actually be open to island residents as a whole and that the community could become gated. She said she'd like to address these items as part of the conditions to settle those concerns.

Mr. Franck addressed concerns about the \$300,000 cap on the traffic light and crosswalk. He said constructing those would cost less than that amount, but the project costs could rise if there is a need to acquire land from others. He said the applicant is not a public body and has no power to condemn property or control over what the cost would be for the DOT to do this, so that's why a cap was proposed. Mr. Eckel said they would be amenable to simple language that says the applicant will cooperate with the Town up to \$300,000. There was a consensus among Commissioners to accept this.

Regarding Commissioner Boswell's concerns, Mr. Eckel said at some point there has to be a level of trust between the Town and the applicant but that he is open to making pool memberships and prohibiting use of a gate conditions of the project. He said they have never developed a gated community.

Commissioner Crouch asked about pedestrian access to Winner Avenue. Mr. Eckel said there are still a lot of things to work out, including regulations on how close pedestrians can get to the lift station. He said if the Town puts a condition on the project that can't be met, then the project doesn't get developed. Mr. Eckel said they are trying to work with the Town as much as possible, but it's not feasible to think of every single condition and put it into this zoning.

Mr. Franck said because pedestrian access involves land that is not the applicant's, it's beyond the applicant's scope and ability to agree to this. He said it would be foolish to incorporate a condition that could be a tripping point down the road.

Mr. Eckel said they haven't had time to study the details of what it would take for pedestrian access to Winner Avenue, so he would like for that condition to be changed to include verbiage such as "potential connection" or be taken off completely. He said they are happy to work with the Town if there is room around the lift station.

Mr. Franck asked for the Commission to strike condition 8 as proposed and allow the applicant to discuss it further in 30 days when the project goes before Council.

Commissioner Crouch said he would feel more comfortable making a recommendation to Council that includes condition 8 and letting Council trim this if necessary.

Mr. Eckel said they will further study condition 8 in the morning.

Mr. Franck suggested incorporating verbiage such as “reasonably cooperate with the Town to assess the viability of pedestrian access to Winner Avenue.” There was a consensus among Commissioners to accept this.

ACTION: Motion that whereas in accordance with the provisions of the North Carolina General Statute, the Commission does hereby find and determine that the adoption of the Conditional Use District to allow for a Mixed Use Commercial-Residential located at 902, 910, 1000, 1010 North Lake Park Boulevard is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans, and the potential impacts on the surrounding area are mitigated by the approved conditions, which are:

- 1) provide for an 8-foot multi-use path on Saint Joseph Street and through the site connecting to the public rights-of-way and a 6-foot sidewalk on North Lake Park Boulevard
- 2) all lighting should be aimed, located, designed, fitted, shielded, and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property
- 3) install recommendations of the traffic impact analysis and add crosswalk and traffic signal at Winner Avenue with the approval of DOT up to \$300,000
- 4) provide daily usage of water and sewer and make improvements as required by Public Utilities
- 5) parking easement to be recorded for usage of the Jersey Mike’s property
- 6) keep existing live oaks as depicted on the site plan
- 7) prohibit short-term rentals of less than 90 days within the residential units
- 8) cooperate with the Town to reasonably assess the viability of pedestrian access to Winner Avenue
- 9) the pool as commercial is open to citizens of Pleasure Island with a limited number of memberships

Motion made by Vice Chairman Rouse, Seconded by Commissioner Boswell

Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Motion passed 6-0

NON-AGENDA ITEMS

Mr. Hardison said the next Commission meeting falls on November 11, which is Veterans Day, when Town offices will be closed. Commissioners agreed to move the next meeting to November 10.

Commissioner Boswell asked when Council would make an appointment to replace Commissioner Ittu, who has resigned. Mr. Hardison said this will take place at the November 9 Council meeting.

ADJOURNMENT

ACTION: Motion to adjourn

Motion made by Chairman LeCompte, Seconded by Commissioner Hogan

Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Motion passed 6-0

The meeting adjourned at 9:00 PM.