

CAROLINA BEACH

Town Council Regular Meeting Minutes
Tuesday, August 11, 2020 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

The Town of Carolina Beach Town Council Regular Meeting was held on Tuesday, August 11, 2020, at 6:30 PM in Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member JoDan Garza, Council Member Steve Shuttleworth

ALSO PRESENT: Town Manager Bruce Oakley, Town Clerk Kim Ward, and Town Attorney Noel Fox

MAYOR PIERCE CALLED THE MEETING TO ORDER WITH INVOCATION BY MAYOR PIERCE FOLLOWED BY THE PLEDGE OF ALLEGIANCE

ADOPT THE AGENDA

ACTION: Motion to adopt the agenda with the removal of item 7 (amending Chapter 10 to Sec. 10-3 definitions & Sec. 10-4 General Regulations to address floating homes), which will be heard at the next workshop in two weeks

Motion: Mayor Pierce

Vote: UNANIMOUS

CONSENT AGENDA

Meeting Minutes

1. Approval of Meeting Minutes July 14 and August 3

Budget Amendment(s)

2. Budget Amendments/Transfers FY20
3. Budget Amendments for Carryovers

ACTION: Motion to approve the consent agenda

Motion: Mayor Pierce

Vote: UNANIMOUS

SPECIAL PRESENTATIONS

4. Lake Park Presentation on Erosion

Virginia Holman, a Carolina Beach resident for 16 years, gave a presentation about ideas for naturally restoring the banks at the Carolina Beach Lake. She said the Town's natural and unique freshwater lake feature should move away from using hardened structures to control erosion because they cause problems such as impeding small wildlife movements and creating vistas for

nuisance animals. She said properly installed native trees and plantings are much more effective at preventing erosion. The North Carolina Wildlife Federation and other organizations have agreed to supply at no cost all plants and large trees up to 15 gallons, installation expertise, educational signage, and volunteers for installation and cleanup. Ms. Holman said the proposal will create a more beautiful and healthy lake. She said the effort to preserve the habitat started in June after she posted on social media about finding two large sliders wedged in boulders on the south side of the lake. As the Town has developed, the lake's boundaries have been significantly altered and the body of water is no longer surrounded by huge wetlands as it used to be, Ms. Holman said.

Carolina Beach Lake Park Enhancement Proposal

A collaborative effort of citizen volunteers, grant funders, and pro bono experts

Current Uses of Carolina Beach Lake (use extensively by the local community and wildlife)

- Weekly farmers market
- Exercise area
- Tourist attraction
- Area for town or holiday events
- Learning area for school children
- Important area for migrating birds and other wildlife

Current Issues with Carolina Beach Lake (a group of over 300 Carolina Beach citizens and tourists recently signed a petition to improve the management and conservation of Carolina Beach Lake)

- Lake edge erosion
- Poor water quality
- Heavy metal contamination
- Algal blooms
- Poor aesthetics
- Nuisance geese

Lake Improvement Opportunities

Concerned citizens have gained support of a variety of environmental groups including:

- North Carolina Wildlife Federation
- Plastic Ocean Project
- NC Cooperative Extension
- NC SeaGrant
- Cape Fear River Watch
- Island Montessori
- And more!

Native Plantings Around Lake

- Prevent lake edge erosion
- Improve water and soil quality
- Prevent algal blooms
- Enhance aesthetics
- Restrict nuisance geese

Native Plant Benefits

- Stabilize Soil
- Uptake of heavy metals
- Uptake of excess nutrients
- Aesthetically pleasing
- Provide habitat for pollinators
- and other wildlife

The Plan (after approval: Design, plant species selection, coordination with Parks & Rec, etc.)

- Complete plantings in phases
 - Soil/water samples
 - Determine appropriate plant material
- Funding by NC Wildlife Federation
- Additional funding may occur upon approval
- Volunteer base ready for planting and maintenance needs

Initial phase, Southern Lake Shoreline (urgent, due to severe erosion issue)

Goals:

- Large trees planted along perimeter, taking views into consideration.
- After trees are installed, native plants will be added along shoreline.
- Path will have mown 3-foot buffer on each side.
- Low simple fence installed by scouts to provide a visual barrier for foot traffic and grass maintenance.

Phase Two

- Island #1 Goals:
 - Native planting around perimeter and around sidewalk
 - Phragmites removal

Phase Three

- Island 2 Goals:
 - Turn into a butterfly garden using native seed packets or native plants
 - Add turtle basking log/platform

Management Plan (volunteer-based management and assistance from Parks and Recreation)

- Native plants are self-sufficient once established
- NCWF CB chapter, CFRW, and other groups have committed to ongoing cleanups and maintenance.
- We have also reached out to members of the town's newly formed beautification committee to assist – one member, local master gardener Dawn Betz is already on board to assist.

Benefits to the Town (enhanced aesthetics will not obstruct desirable views and will help control phragmites-invasive plant nuisance)

- Improve lake qualities
- Improve lake habitat
- Encourage tourism

- Promote local businesses and events (imagine Night of Lights with decorated trees!)
- Increase property value

Next steps (with Town Council's permission, we can begin to use these opportunities to benefit the Town)

- Set dates for planting
- Select and order plants
- Gather supplies and organize volunteers
- Utilize all resources and funding opportunities
- Select location of tree installations

Mayor Pro Tem Healy asked how heavy metal contamination is defined. Ms. Holman said it's arsenic and mercury and other things that wind up in runoff from pesticides and herbicides. She said with stormwater funneling in from many areas, this accumulates over time and native plants can help sequester it. Mayor Pro Tem Healy praised this effort as positive and beneficial to the Town.

Mayor Pierce said historically grassroots efforts such as this have been very instrumental parts of the Town's progress, including on the Boardwalk, so she was in favor of it. She asked Mr. Oakley if there was a staff liaison for the project, and he said it was Parks & Recreation Director Eric Jelinski. Mayor Pierce also suggested that someone from Council get involved, and Mayor Pro Tem Healy said he would.

Council Member Barbee said he hopes organizers will consider that the island on the lake will sometimes be underwater. Ms. Holman said they have already been thinking about the types of native plants that will be able to survive there.

Council Member Garza said the majority of plants discussed love water and absorb quickly. He said it was encouraging to see how a few people can get together to improve the Town and thanked Ms. Holman's for the group's efforts.

Mayor Pierce said the Town should keep in mind that it still needs somewhere to put lake dredge spoils since being denied by Military Ocean Terminal Sunny Point (MOTSU). Lloyd Singleton, County Extension Director for North Carolina Cooperative Extension, said the best time to plant trees is in the winter. Council Member Shuttleworth asked which side the group envisioned starting on. Mr. Singleton said the south side opposite of the playground. Council Member Shuttleworth said he loves the idea of doing plantings instead of hard structures. Mr. Singleton said the group hopes to bring in expertise from N.C. State University.

Council Member Barbee said he wants the people who were involved with the master plan get together with this group before any work begins. Council Member Shuttleworth said he isn't sure there's a conflict between the two. Mr. Jelinski said he views the two groups as separate and said most of the focus for the native plantings is on the south side of the lake, which does not interfere with the master plan for Lake Park. Council Member Barbee said after getting input from the public previously, he thinks the Town should not move forward with doing something that has not received any public input. Mr. Jelinski suggested a public meeting at the lake for the public to get more information and give input. Mayor Pierce asked for this to be added to the

special meeting at the lake scheduled for August 20. Mr. Jelinski said he could set up a table with volunteers. Council Member Barbee asked if there are examples of similar projects nearby. Mr. Jelinski mentioned Wade Park in Wilmington. Council Member Garza also mentioned local carnivorous plant gardens. Mayor Pierce asked that something be put together for citizens to see and that the public be notified of the opportunity. She thanked the group for doing so much work.

5. Manager's Update

Mr. Oakley gave an update on current projects and events.

Hurricane Isaias

- Damage Assessment – minor to both Town and private interests; overall fortunate
- Vegetative Debris – pickup underway
- Beach Erosion – some near Periwinkle beach access and down; overall fortunate
- Freeman Park – did lose some sand; less capacity for vehicles
- Harbor – Assistant Town Manager Ed Parvin will discuss this later

Council Member Barbee said some people are not getting message that non-vegetative debris should not go in piles, so he wants to know what else can be done to make sure residents are aware. Mr. Oakley said the Town will keep pushing out that information as much as possible. Mayor Pierce asked about the possibility of charging those non-vegetative items to the homeowner. Mr. Oakley said the Town can look into that.

Utility Billing

- Governor's Utility Disconnect Order Ended – the Town doesn't have the authority to continue that policy but will work with individuals who still need assistance
- Payment Plans
 - Contact Town Hall by August 20, 2020
 - Six-month repayment period
 - No late fees or penalties

Efficiency Study

- Initial Interviews Completed
- On-Site Visits Start Next Week
 - Additional interviews
 - Observations

Mr. Oakley said hopefully the Town is on track to finish this within the next two months.

NCDOT

Staff had a meeting last Friday with a Local District Engineer for the N.C. Department of Transportation.

- Pedestrian Improvements on Ocean Boulevard – submit to Transportation Improvement Program (TIP) for spring
- Traffic Signal at Hamlet – delayed because of DOT funding shortage; hoping things will change because it comes in cycles

- Traffic Improvements on Lake Park – submit to TIP for spring
- Dow Road and Ocean Boulevard – the Town was told in the past a speed limit reduction could not be done, but if the Town agrees to enforcement it is a possibility

Regarding the speed limit change, Mayor Pierce asked if Council should schedule a public hearing first and then submit the request to the DOT or vice versa. Mr. Oakley said all it requires is a resolution from Council requesting the change and the Town stating it will enforce it. Mr. Oakley said he can prepare a resolution for the next workshop if that's how Council wants to proceed. Mayor Pierce said the Town should talk to Kure Beach before moving forward. Council Member Shuttleworth said he agreed this should be done out of neighborly courtesy.

Mayor Pro Tem Healy said he would like for a previous discussion about a crosswalk in the Publix area to be addressed. Mr. Oakley said the Town will put in TIP requests; it is preferable that the DOT takes an overarching look at the whole area to help the Town come up with a plan.

Police Chief Search

U.S. I.S.S. Agency

- Review of Candidates
- Review of Finalists
 - Extensive vetting of candidates
 - Panel interviews
 - Presentation to executive staff

Mr. Oakley requested Council's permission to negotiate and enter into an agreement to help with the search, which should conclude around the same time as Chief Chris Spivey's retirement on December 1. Mayor Pierce asked if the cost would be \$18,000. Mr. Oakley said it will be lower because the Town has already eliminated some things and is working on a final price. Mayor Pierce said the agency would handle all aspects of the search, including seeking candidates, running background checks, and doing interviews, with Mr. Oakley having the final say in hiring. Mr. Oakley said this service is important because hiring a Police Chief is different than hiring other department heads, and expertise is necessary.

ACTION: Motion to have the Town Manager enter into a contract to vet candidates for Police Chief with discretionary funds with a top of \$18,000 and to negotiate less

Motion: Mayor Pierce

Vote: UNANIMOUS

Town Marina

- Golden LEAF Foundation Grant
 - \$2.1 Million Grant
 - 70% of the Repairs
 - Must Continue with FEMA Appeal
 - FEMA Duplicated Funding Will Reduce Award
- Timeline
 - Can Start Immediately
 - Reimbursements – can't come until the Town meets some requirements

Mayor Pierce praised Mr. Oakley and the rest of Town staff for finding a large amount of money that does not require a match. She said the repairs had to be done somehow, so this will really help with the Town budget.

Council Member Barbee suggested doing another presentation about the project for the public because there would be some disruptions in that area once it starts. Mr. Parvin said this is already in the works, and the Town is cognizant of keeping the impact to Canal Drive low during the summer season.

Mayor Pierce said the Town should nail down a time frame for how long it will take the Town to get the remainder of the money that will come out of pocket for the project.

Mr. Parvin gave an update on the harbor following Hurricane Isaias. There were nine vessels that anchored in the harbor area. The Town closes the mooring field during storms for liability purposes, but people still use it. Two of the nine vessels clipped on to the mooring, and one is still there; this is in violation because the Town has not yet reopened the mooring field, but there is no action taken if they are seeking safe harbor during a storm. One vessel's line broke, causing it to break free, while the other seven dragged anchor. Three damaged private docks, and the Town is working to resolve those issues. All vessels have been given warnings, and after warnings come citations. Mr. Parvin said the new ordinance that Council put in place in May has allowed the Town to move forward with the process.

PUBLIC COMMENT

Karen Hall of 205 Raleigh Avenue said she has been living on the island since 2016 and is having an issue with flooding in her yard. She said the house was built in 1933 and that everybody is building up around it, specifically citing nearby sloping driveways and parking lots as culprits. She said one such property had well beyond its permitted three loads of dirt, so she called the Town and asked for someone to take a look. She said the person who responded did not treat her nicely and did not take any action about the extra dirt, which has now been made into a slope. She said she spoke to the Town employee's manager, but so far nothing has been done.

Council Response:

Mayor Pierce asked the resident to give her address to Mr. Oakley so he could look into the matter and get back to her. Mayor Pierce thanked the resident coming and reporting the issue.

PUBLIC HEARINGS

6. Consider a Conditional Use Permit for an 8-Unit Single-Family Residential Planned Unit Development to be located at 522 N. 7th Street

The following individuals were sworn in:

- Erin Delaney, 520 North 7th Street
- Ward Basinger, 526 North 7th Street
- Mark Campbell, 107 Palm Breeze Drive
- Norma Weeks, 515 North 7th Street
- Roshell Heckendorf, 116 Palm Breeze Drive
- Mary Jean Aydelotte, 106 Island Palms Drive
- Alexis Lunsford, NextHome Cape Fear

- Quinn Marlow, Applicant
- Susan Keelin, Applicant's Attorney
- Patricia Keane, no address given
- Byron Hevey, no address given

Mayor Pierce: OK, very well. So, at this time I'll make a motion to open the evidentiary hearing for the conditional-use permit for eight-unit single family residential planned unit development to be located at 522 North Seventh Street. All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: Attorney Fox, would you like to have a discussion on the quasi-judicial matters?

Ms. Fox: Yes, Mayor. Thank you. Mayor, Council, as you know this is a quasi-judicial hearing. That means it is an evidentiary hearing much like would take place in a courtroom. You must follow very specific procedures required by state law in making its decision tonight. All the testimony this evening will be under oath, and you are to make your decision based on competent, relevant, and substantial evidence in the record. If you're speaking as a witness, please focus on the facts and standards, not personal preference or opinion. If you speak, the applicant's attorney may cross-examine you just like she could in a court of law about the testimony that you give. If you intend to testify, please do not offer unsupported opinions or speculation. The board cannot consider this testimony. Please limit your testimony to relevant and competent substantial and material evidence. Competent evidence, evidence is not opinion testimony of lay witnesses about the following things: one, use of property in a particular way would affect the value of other property. The increase in vehicular traffic resulting from a proposed use would pose a danger to public safety. Matters, matters about which only expert testimony would generally be admissible under the rules of evidence. Before we begin, you all will be familiar with this part, the parties before you tonight are entitled to have this matter judged by an impartial decision maker. If you have a conflict of interest, you must not participate. A conflict exists if you have a close familial, business, or other relationship with an affected person or a financial interest in the outcome of the matter. Does any member of the board have any conflict partiality to disclose or recusal to offer?

Council: No.

Ms. Fox: You're just going to have to shake your heads I guess, so we. OK, all members are shaking their heads no. I am aware that some of you received some emails that you forwarded to Town staff and Town staff then forwarded a response to those folks. Do you have any other ex parte communications to disclose?

Council: No.

Ms. Fox: OK.

Mayor Pierce: OK, thank you, Attorney Fox, and uh we'll move into the staff presentation.

Miles Murphy (Planner): Good evening, Mayor, Council. Uh, happy to see you. I apologize for the mic. It's a little bit jury-rigged over here, so hopefully reception will not be bad. I'm happy to be back in front of you. It's been a long time. I think three, might have been March or April since last time I had the pleasure, but good to see you all. Tonight, I'll be presenting a conditional-use permit for a planned unit development at 522 North 7th Street. Just for some background, this aerial will give you an example of the conditions at 522 North 7th, though that's not what it looks like today. Currently it features a large single-family home placed right in the center of it, but that project has since been abandoned. The applicant is Marlow Construction LLC, who is with us this evening with their attorney. So that is what currently is occupying 522 North 7th, though I have been informed that structure has taken a little bit of storm damage from the recent hurricane, so definitely something needs to be done with the lot regardless of the outcome of this evening. These are the adjacent properties on 7th Street. These are the five directly adjacent properties and Olde Mariners, and these are the three directly adjacent properties on Palm Breeze. Residential planned unit developments are permitted in the R-1 zoning district, where 522 North 7th is located. They are permitted by conditional-use permit, hence my presence in front of you tonight, and they have a max density of 15 units per acre, and this area normally has a 50-foot height limit, but because of an overlay district they're going to be limited to 45 feet in overall height. Otherwise it's your standard R-1 requirements of 40 percent lot coverage and set general setbacks. Their site plan includes a landscape buffer requirement for the planned unit development of 10 feet around the site. It is featuring eight single-family homes, each home featuring a footprint of 900 square feet. Drive aisles and parking meet standards for zoning requirements and fire access. They have open space of 88 percent and lot coverage of structures of 12 percent. State stormwater permit will be required and a stormwater plan including a retention pond is featured and will be refined by an engineer. All units meet the minimum 15-foot separation requirement with 15 and a half feet being the small separation, and the units are described to be approximately three to four bedrooms and provide a minimum of three parking spaces required per unit. And it's worth noting that the size of this lot could technically accommodate 20 units based on the standards for the R-1 zoning district, but since the beginning of this process the proposal has been refined down to eight single-family units to be, excuse me. The specific standards, the ingress and egress, will remain via North 7th Street, and design is accommodating two-way traffic with efficient, sufficient parking for single-family residences, and the staff has requested the continuation to attempt to continue the sidewalk that is along 7th Street there and efforts as part of the Bike and Ped Master Plan. I believe we're just trying to encourage walkability and bikeability of the Town. Off-street parking, as I said, has been provided on each individual parcel or individual home driveway area, as you can see on the site plan. The refuse and trash will be handled in the standard method throughout the Town with enough space for a trash truck to get back into those, into that cul-de-sac. Utilities will be provided by Duke and the Town. State stormwater permit is required, as I stated, and a fire hydrant is going to be installed to help service the cul-de-sac. Screening and buffering, as I mentioned, the planned unit development requires a 10-foot landscape buffer, which has been accommodated on the site plan. Additionally, a 6-foot fence is proposed to surround the entire planned unit development, provide a little bit of additional buffer from headlights and general separation. There are no signs proposed at this time, and any signs would have to come before the general, the Planning Department for a general sign permit and meet all those standards and requirements. And otherwise they have no additional requirements for yard or open space. Just meet the minimum of 15 feet between structures, 20, and a minimum of 25 percent open space and are far below their lot coverage requirements. And just over on the lower right hand of your screen you'll see the setbacks for

the structures there to the to the property lines. The four general conditions, the density falls within the standard R-1 density requirements, and the proposed structures follow the setback requirements for where they are located. The proposed CUP meets all required conditions and specifications. The proposed structures and use will conform with the neighboring properties, and the future land use of Residential-1 includes a predominance of single and duplex units. Block coverage will not be allowed to exceed 40, and infrastructure to undeveloped and unserved areas will be at the expense of the developer. Staff recommends the approval of the proposed residential conditional-use permit with the requirement of a 4-foot-wide sidewalk extension parallel to the 7th Street right-of-way, and I'm happy to answer any questions you all may have.

Mayor Pierce: Any questions at this time, or do you want to come back to staff?

Council Member Garza: Come back.

Mayor Pierce: OK, don't go far. And would the applicant like to present evidence now?

Susan Keelin: Good, evening, uh, Mayor Pierce and members of Town Council. My name is Susan Keelin, and I represent the applicant for this conditional-use permit, which is Marlow Construction LLC, and Mr. Quinn Marlow is present, and he will be testifying uh momentarily. I have the unfortunate eyesight problem that I cannot see you without my glasses but I can't see my paper with my glasses, so I might be doing a back and forth a little bit, so I apologize for that. I want to start by thanking Noel Fox for introducing the quasi-judicial proceeding requirements, which I'm confident that you're aware of already, so thank you in advance for sort of indulging me as I maybe repeat them a bit because I think it is so important in this context. Just four months ago, in April of 2020, the North Carolina Supreme Court held in a very important quasi-judicial hearing case called PHG Asheville LLC versus City of Asheville that a, that quote a conditional-use permit is one issued for a use which the ordinance expressly permits in a designated zone upon proof that certain facts and conditions detailed in the ordinance exist. In other words, as you know, the purpose of this hearing is not to solicit any sort of public opinion and comment about policies that are already in place but rather to receive evidence to determine whether this particular proposal fits the requirements of the ordinance that already exists. This council has already made, this Council or a prior Council has already made a legislative decision to allow this particular proposed project in this location by right so long as those specific requirements and four standards are met with competent, material, and substantial evidence tending to show that the project satisfies those standards unless there is competent, material, and substantial evidence to the contrary. And I make that point again to say that the burden on the applicant is to provide evidence tending to show that those requirements are satisfied. Once that has happened, there's a prima facie determination that the permit should be issued unless there is competent, material, and substantial evidence to the contrary. If there is no competent evidence to the contrary, the permit has to be issued, and substantial evidence is defined as evidence that a reasonable mind would regard as sufficiently supporting a specific result. By sort of comparison or contrast, if you will, the courts have also said that a general expression of some sort of a fear of potential problems is not adequate evidence. So far, we've had testimony in support of the application from Miles Murphy, who has presented the staff report, and we will have additional testimony from Mr. Marlow as well as Alexis Lunsford, who was a realtor with NextHome Cape Fear. I don't know how you would

prefer to handle some of the procedural issues, so absent objection I would like to sort of preliminarily ask in advance if the Council will accept into evidence any of the slides or other documentary evidence that is presented by or on behalf of the applicant. Again, absent objection, I would like to do that and to accept Alexis Lunsford as an expert witness in the area of property valuation in Carolina Beach. She, of course, is going to have to testify and provide sufficient foundation of her qualifications for you to be satisfied of that fact.

Mayor Pierce: And you'll be calling her as a?

Ms. Keelin: I will be calling her as a witness, yes. I want also to make sort of a standing objection to this Council's consideration of any irrelevant, non-factual, or otherwise incompetent testimony tendered by any opposing witness, and I'm well aware based on who's in the audience and who signed up that there are a number of people who would like to be heard uh in in opposition apparently to this proposal, and instead of me interrupting the flow of their argument, I would like to instead, not their argument but their opposition, I would like to instead just make that standing objection that Council be aware that if they are not testifying based on facts, if it's speculation, if it's not related or relevant to this particular project, I don't want to interrupt their opportunity to speak to you and be heard, but I would like for you to know that I do have an objection to that for consideration. Uh and finally, at the conclusion of all the testimony, I would like an opportunity to confirm that the evidence tendered has been accepted into the record, just so we're clear on that, and to renew that standing objection and then make a closing argument. I'm going to have Quinn Marlow present testimony, Alexis Lunsford, and then I would like to spend just a couple more minutes and present as a witness some recorded plats that have already been provided to Mr. Miles, and he's shaking his head that he has those slides, and that's just going to be some relevant evidence that I think you will want to consider to understand the history of this property and how it was originally uh not one single 1.34-acre tract but multiple lots. So, at this time, I would ask Mr. Marlow to come and present his testimony. Thank you.

Quinn Marlow: How's everyone? Thank you for having us during this time. We appreciate being able to be heard and speak in this forum. So, if Miles, could you put that in slideshow? So basically, our first slide is to show the site plan in more of a visual manner. So basically, we have eight proposed single-family homes. They are 1,800 square feet. They are two stories on a slab. They are not on pilings, so it's no more than two stories with a roof. There will be a single-car garage. Residents' driveways will fit two cars, and then you can also park one in the garage, so a total of three, and that is similar to Palm Breeze and Olde Mariners Way. They'll also be densely planted with trees and vegetation all around, which you can see some. Our site plan towards the end will show even further and then we also plan to plant evergreens along the entry driveway which is right off 7th Street and there'll also be a 6-foot-tall privacy fence. After hearing the comments from our other meetings, our HOA will limit short-term rentals. We don't believe being as far back it's necessarily needed, so there'll also be no boat or RV parking in the community. There'll be a central mailbox within the community as well, and the trash pickup at each individual home as well, just like the surrounding communities. So it was our design intent to push more density towards the back of the development, and that's why you will see our three or four larger homes back towards the storage facility in the back, as well as this plan is very similar to Palm Breeze, as you will notice. So speaking of density, we proposed eight single-family homes. It is a similar scale density to the neighboring subdivisions developed on 7th

Street. The site plan illustrates the relationship of the neighboring properties compared to our neighbors. This lot was once four lots that included one of the houses on the side of our drive. There's now technically three left if it had not been combined to its current state. And with a max density, we could build six townhomes, one building on each of those three original lots, with a driveway that was 22 feet wide. We are now only asking for two additional single-family homes that fits more in harmony with an access that is 36.6 feet wide, which is much larger than both Mariners and Palm Breeze. You may be aware we have changed from our original plan twice. We first proposed 12 townhomes, which was switched to nine single-family homes upon request of the neighbors, and then we reduced that down to eight based on one request so that we had three houses closer together, and so we eliminated one so that that neighbor in Palm Breeze would not have as many houses overlooking his yard. And so that's some aspects of the density. So we put this little scheme together basically to show the houses we're proposing compared to the ones in Mariners and the ones that are on either side of our entry. You'll see on the right basically that we have two different type of house designs. One's a little bit wider and one's a little bit skinnier. You'll see those on the right, and this is to scale with the rest in the design. So, 526 North, that is a single-story, single-family home. Olde Mariners, this is specific to their home sizes, and then 720 North Avenue, you'll see their height is a little bit larger. This basically just shows comparison that we are trying to fit with harmony of the surrounding communities. So, the entry, it is a two-lane entry street. There will be large vegetation planting along the entry with again a 6-foot privacy fence. The width is 36.6 feet, and total width of the entry, we have agreed to do the added sidewalks at the 7th Street, so they'll be at the 4-foot-wide sidewalk connections for the Town's future plans. Parking and traffic in comparison to Palm Breeze and Mariners only has on average two cars in their driveways based on current zoning requirements. We provide off-street parking for the three, so basically, as families usually use one car to exit their house efficiently if they're all leaving once, if all of our parking spots were full there'd be 24 total with the eight single-family homes. It'd be very unlikely for all of those 24 cars to exit onto North 7th Street at once, so in my observation I believe that our impact will be very minimal based on the flow of traffic that we observed already from the neighboring communities. So, I did do some observations on 810, 811, and 731 that traffic has very little movement during the day. There are rare occasions where you have more than one car stacked behind each other trying to leave the neighborhood, and so you have less congestion concerns with our neighborhood being included in this. And during my observation, this all above happened, and I would be, I would have no reason to believe different that that would be the case. So also, to specifically speak on the road width, ours is proposed at 24 feet, which you'll see in the design dimensioned. Mariners road entry is 26.25 feet wide, and Palm Breeze is 22.16 feet wide. This is measured from outside of curb to outside of curb. OK, so the next thing would be basically grass from the properties. Ours is larger than Palm Breeze, our most compared-to community. This, however, does not take into account that the additional 6-foot buffer on each side and between that and the fence is obviously the evergreens, which puts us 10 foot larger than Mariners, which is a larger community than ours. So we believe that we are adequately set to create a low impact on the area based on our drive access, based on our buffer zone, our fencing as well. So we have a few pictures. Our centrally located community mailbox, it would look something like that. You'll see in the right corner basically trash and mailbox examples shown may vary depending on product type, and we would also make sure that all of our trash cans are hidden out of the view of the public when you're driving through our community, whether it's behind a fence or a bush or something similar to that, but you would not be able to see it from the roadway. So basically this is back to the site plan, and I just wanted to talk about the vegetation screen a little bit more. We would attempt to plant these

plants early on in the construction process, so through the entire construction process they would mature instead of planting them after we're done, which landscaping is usually one of the last things done in building a standard house. The entry buffer compared to the two neighbors on either side, there is a 24-foot-wide road with a 6-foot fence, both with a 6.3-foot buffer on each side, which will comprise of tall vegetation, not to mention both houses currently have their own 6-foot fence. So we're going to run ours along as well, so you will have very little possibility of lights or, you know, it will drown out noise with all of that buffering. And you saw in the entry setup that you can see the trees compared to the other houses on either side of our road entry. One concern from the two neighbors on either side of our entry is the two houses that are first in our community on the left and right side road. We have pushed those as far as we can away from our fence that we're going to build, and that is 18 and 20 feet. The left one has a 20-foot distance from our property line and an 18-foot distance on the right from our property line. There's the vegetation buffer between that and our 6-foot fence, as well as the neighboring properties have a 6-foot fence as well in their backyard. And you will see that driving through that area, their houses are pushed more towards the street, so they have large backyards, and so there is around a 50-foot distance between our first set of houses and the back of their house. I mean, most frontages of normal lots in this area is 50 feet, so it's a substantial distance, and we believe that it will provide maximum privacy that we can provide. I believe that's all I have. I'd be happy to take any questions and concerns or that you may have.

Mayor Pierce: Does Council have any questions for this witness?

Council Member Barbee: I just had a real quick one. Is there a plan for street lighting in that cul-de-sac?

Mr. Marlow: Um, yeah. So we believe that we may end up putting two street lights in there as well.

Council Member Barbee: Thank you.

Mayor Pierce: I have a question.

Mr. Marlow: Sure.

Mayor Pierce: I see that you're gonna have some HOA covenants and restrictions, and I see you've added a short-term rental into that, which is good for that housing area, I'm sure. Do you have those drawn up yet or what those covenants and restrictions would be?

Mr. Marlow: We do not have them drawn up yet for this specific community, but the short-term rentals will definitely be specifically addressed in that, as well as like the boats and parking, because that was a concern from our P&Z committee. Can people park their boats et cetera in their yards like you see and actually the neighboring community of Mariners Way et cetera, and so we want to eliminate that in our HOA docs.

Mayor Pierce: And what is the price point or the average price of these houses?

Mr. Marlow: Sure, so they will range from the mid-4s, so 450, 475. Our seller's agent will testify to sale prices and include ours as well, so.

Mayor Pierce: Anymore questions? Ms. Keelin, do you have another witness?

Ms. Keelin: I do. Alexis Lunsford, if you would, please approach. Thank you.

Alexis Lunsford: Hi, everyone. Good evening.

Mayor Pierce: Alexa, can you give us your name really quick, and help me out here, Attorney Fox, the qualification as an expert witness.

Ms. Fox: I think she's gonna lead you through her experience.

Mayor Pierce: OK.

Ms. Lunsford: My name is Alexis Lunsford. I'm a realtor with NextHome Cape Fear. I'm also the listing agent for the seller of this property, Cindy Workman, property in question. I've been actively licensed for six years. I'm a third-generation broker. I ran my grandmother's real estate team and did everything for them for seven years prior, so I've been in this business all my life, and even when I wasn't actively licensed I was pulling comps, working on negotiations, and all of those other things for members of the team. So, reviewing the CUP requirements, I can offer information to support the fact that the proposed development will not substantially injure the value of surrounding properties and will 100 percent be in harmony with the surrounding area. I'm going to provide you with a list of facts in relation to that based on my experience, based on tax data, based on multiple listing data. First of all, this is a 1.34-acre lot, and yes, it's in the R-1 zoning district, but when I researched the island I could only find 29 single-family lots in all of Carolina Beach that were one acre or greater, so this is obviously a very odd animal. So I don't feel that it should be treated as if it were one typical R-1 5,000- to 7,000-square-foot lot, which has been some of the argument, to treat it as one lot. As you know from the presentation, the builder's proposal consists of eight single-family units that will contain 1,800 square feet approximately of living space and sixteen-hundredths of an acre lots, and so basically I started with a large scope on just the R-1 district as a whole, and then I zoomed in on the specific surrounding areas. So R-1 as a whole, I looked at the last year, year's worth of listings. There were 319 listings. Some sold. Some didn't. Active, you know, whatever, but listed on the market in the last year. Only 33 percent of that entire district were single-family homes, first of all, so it's not the primary, you know, what you see in R-1, and then 83 percent of those, the lot sizes were sixteen-hundredths of an acre or less, so the other 17 were from twenty-nine-hundredths to thirty-seven-hundredths. So again, this is not your typical R-1 lot at 1.34 acres. So from there, I went and I looked and scoped in on Olde Mariners Village and Palm Breeze and also the two neighboring, 520 and 526 North 7th Street. So if you look at those neighborhoods, Olde Mariners has 32 homes; 81 percent of those homes, the lots and the square footage, they both equaled out to the same, the lots and the square footage are equal to or less than what is being proposed. And when I say less, it's by, you know, a minimal amount, I think around 1,300 square feet or so was the smallest in Olde Mariners Way.

Council Member Shuttleworth: Let me ask you a question. Equal to as far as the square footage of the structure?

Ms. Lunsford: Yes, square footage and lot size.

Council Member Shuttleworth: So the lot size in ancient Mariners, how big are those lots?

Ms. Lunsford: They ranged, well it was 81 percent of them were equal to or less than 1600.

Council Member Shuttleworth: Square feet for the lot?

Ms. Lunsford: Sixteen-hundredths of an acre, yes. So the square footage would be 7,200.

Council Member Shuttleworth: Square footage of the lot would be 7,200 square feet?

Ms. Lunsford: Right.

Council Member Shuttleworth: So it's your contention that each one of these structures would have 7,200-square-foot lot?

Ms. Lunsford: That was my understanding from the builder's proposal. Is that correct? That was my understanding. Yes, sir.

Mayor Pierce: While you're there, I have a question. Sorry we've got a, we got a little. On Olde Mariners Way, are there any houses listed for sale or have recently sold on that street? Are you going there?

Ms. Lunsford: Yes, I'm starting with just the scope, the harmony, and then the valuation part.

Mayor Pierce: OK, go ahead.

Ms. Lunsford: Are there any other questions about?

Mayor Pierce: Sorry, we jump ahead.

Ms. Lunsford: That's OK. You gotta throw a hard ball at me once in a while.

Council Member Shuttleworth: We're just warming up.

Ms. Lunsford: OK, well, I'll do my best.

Council Member Shuttleworth: You're doing great.

Ms. Lunsford: Palm Breeze our next. So we understand that 81 percent basically of Olde Mariners Way are comparable to what's being proposed. Then Palm Breeze is a little bit

different. It's eight homes only, and like the builder said, with the square footage of 1,800 and the lot size, it's even a little bit more comparable to the setup of theirs, but 79 percent of the lots there are also equal to or less than the proposed lots, and 71 percent of the home square footages in Palm Breeze are equal to or less than. So, I mean, you can't just, you can't get much more in harmony than that, and, I mean, the scope of looking at the aerial really puts it into perspective. Now if you look at the two on 7th Street, that neighbor of the property, 520 North 7th and 526 North 7th, they're a little bit different. 520 North 7th street is approximately 2,250 square feet. I say approximately because I got this from tax and MLS data. I didn't go out there and measure it myself. Twenty-four-hundredths of a lot, twenty-four-hundredths of an acre, and then 526 7th Street is 2,332 square feet approximately on forty-three-hundredths of an acre. So you've got half-acre, quarter-acre houses a little bit bigger than all of the surrounding areas. So basically if you take Palm Breeze, both of the 7th Street properties, and Mariners Way and you put all of the figures together, then what the builder is proposing in the PUD is in harmony with 71 percent of the homes in relation to square footage and 79 percent of the homes in relation to lot size.

Council Member Shuttleworth: OK, I want to ask you a question.

Ms. Lunsford: Yes.

Council Member Shuttleworth: You took the lot size based on the 58,000 square feet of what they're, the total.

Ms. Lunsford: Based on the, say that again. I'm sorry.

Council Member Shuttleworth: According to the land plan, there's 58,271 square feet in this lot. If you divide that by eight, that gets you your 7283.

Ms. Lunsford: Uh huh.

Council Member Shuttleworth: But this land plan includes all of the driveway, the cul-de-sac, so when you compare ancient Mariners or Palm Breeze, those have lots exclusive of all the driveways, all the streets, not the driveways, but the streets.

Ms. Lunsford: OK, I understand what you're saying.

Council Member Shuttleworth: So to get it, to get it apples to apples, you would have to take out the driveway and the cul-de-sac to say your net buildable area.

Ms. Lunsford: I do agree with what you're saying, most definitely, and I'm only comparing about what the houses will sit on in comparison to the real, the relating neighborhoods.

Council Member Shuttleworth: But they don't sit on that because you have. OK, that's fine. I got you. Go ahead.

Ms. Lunsford: OK, they would have to help with that because I was told based on their plan that it was about that much lot coverage per unit, so maybe we can get them to help. OK, so there was an argument that was made to have, you know, less homes on the lot, but, I mean, if you did that it would be even in less harmony with the surrounding area than what's already there. OK, next I'm going to move on to value. I looked at Olde Mariners Village. There had only been two listings that sold listed in the Multiple Listing Service within the last year. One sold for 365,000, the second sold for 305,000, and both were right about 1,300 square feet and eleven-hundredths of an acre lot, so smaller lots, smaller homes.

Mayor Pierce: What's the square footage of the houses being proposed?

Ms. Lunsford: 1,800. Footprint 900, I understand, but square footage 1,800, so there's been some mix-up about that. Then, Palm Breeze only had one sold that actually just sold last week, and it's in the past year, and it was approximately 1,700 square feet on fifteen-hundredths of an acre, and it sold for 415,000. So that's your basic sold comps in the general region, but then I went and just looked at single-family Carolina Beach the full market for anything comparable to these proposed homes based on the specs and other builds and things that I've seen. That's just what I had to use, so I pulled homes for the last year that were ranging from 1,300 square feet to about 1,900 square feet to keep the range in there, and with made sure all the lots were smaller than twenty-nine-hundredths of an acre, and the sold range there was from 305, which ironically was the one in Olde Mariners Village, up to 509,900. What I found interesting but not surprising was that the higher end of that range was all from the new construction that's been built on the island similar to what Marlow is proposing, and those ranged from 449 to 509,900, and those truly were all the new constructions in that price range. None of the existing properties in that square footage range. I'm sure there were other things that sold for more that weren't comparable. So basically when you look at all those facts, and I do have, I don't know if you'll let me give it to you, but I do have that listed out front and back if you guys want it. But if you look at the current market, it definitely supports, I mean, anywhere from 450 to 490, just depending on what he wants to put in it and what his profit margin looks like. And when you just look at the overall solds in an area, if you've got comparable housing that's newer and it sells for that much higher per square foot, I mean, it's just common sense. Excuse me, but I am a realtor. It's common sense to know that the comparable housing would inevitably trend upward as well.

Mayor Pierce: Just a question. Did you look down at Island Palms Drive as a comparison as well?

Ms. Lunsford: I didn't. I did see it there, but I just looked at the two that actually joined and the overall market, so there could have been some specifically in that neighborhood, but I couldn't tell you for certain.

Mayor Pierce: Is there any more questions for this witness? OK, thank you.

Ms. Lunsford: I do, just a, can I just?

Mayor Pierce. Yeah, yeah.

Ms. Lunsford: Just one more. I don't want to keep you guys all night, but just a couple more things. I understand truly the concern of 520 and 526 North 7th Street because they think if, you know, there's a driveway that's coming in between their properties, I respect that and I understand that. I'm an original, and I've grown up in and around this island all my life, and so I get it, you know. The progress is not always what everybody wants or considers progress, but, you know, it is what it is. Those houses were built in 99, 2001 before everything else was developed around the property, so when I have buyers that come to this area at Carolina Beach, they're not asking me for peace and quiet and no traffic if, you know, paying under the under 500,000 and even more than that on the island, and if they were I certainly wouldn't send them to the R-1 district. I'd put them in R-3, which would be much more appropriate and possibly could find some housing that would accommodate that price range. So anyway, I think that's something to consider, and it's not, and that's not a driveway. It's going to be a private road. He substantially put the landscape buffer. I mean, he just couldn't do much more other than build a highway wall, which that wouldn't look good. OK, so last but not least, I just want to say that truthfully the bottom line is that the only person on this island really stands to have any substantial injury to the value of their property would be my client because this is obviously the highest and best use. They've met everything they could within the scope of the law, and while it's nobody's fault, she's not here due to health concerns. Her doctor recommended she not be here, and while it's no one's fault, sorry, I get a little emotional in this part, um it's no one's fault that she ran into the situation that she ran into and had to abandon this build. But, you know, for her to be penalized and not be able to sell it at its highest and best price, which even at where we are now, she's taken a significant financial loss, and that's her loss. She has to incur that, but the other neighbors stand to lose property that they don't own in the first place, and I would never have expected to build on this island and never have houses on every side of me if there was vacant developable land in flood zone X, of all things. I mean, you just ride around the island and see that would be ludicrous to assume. So I appreciate you guys hearing me, and if you don't have any other questions, I will step down.

Mayor Pierce: Are there any more questions for this witness? Thank you.

Mayor Pierce: Thank you. Ms. Keelin, do you have any other witnesses?

Ms. Keelin: Just myself

Mayor Pierce: OK.

Ms. Keelin: Before I introduce the plats, and thank you for bringing those up Mr. Murphy, I would like to, if I can, address the question that came up from Mr. Shuttleworth about the comparisons of lot sizes. It's a fair question, and I understand where it's coming from. I will point out, though, that this is not a subdivision, so a comparison of lot sizes for a subdivision as compared with the CUP for a single 1.34-acre tract, it's not exactly how the ordinance sets forth the requirements, and Mr. Murphy, please jump in as the Senior Planner if I am misstating something, but my understanding is that each of the specific standards and requirements in terms of density, setbacks, open space, and so forth have been exceeded by a very large amount, specifically the lot coverage if you look at the 1.3 acres 1.34 acres as an entire lot and not as eight separate lots because it's not. The way the ordinance requires that calculation to be done, the lot coverage is 12 percent where the ordinance would permit it to be up to 40

percent. The open space is 88 percent, whereas it only has to be by ordinance 25 percent. Is that accurate based on the ordinance, Mr. Murphy?

Mr. Murphy: Yes, ma'am.

Ms. Keelin: OK, I hope that helps a bit.

Mr. Shuttleworth: It does. I mean, I understand, I understand it was the math.

Ms. Keelin: I understand, too. It was a very valid question, and I'm glad you brought it up.

Mr. Shuttleworth: Your plan, when your plan says you've got R-1 zoning residential lot coverage 7,200 square feet, it leads one to believe that there's, and so this is more of a, if I understand this correctly, this is a PUD where these would be footprints and you're selling a townhome and it's going to have an HOA.

Ms. Keelin: That's correct.

Mr. Shuttleworth: OK, so it's just some consistencies, which I'll get to with staff, but I will give you an example. When you start talking about, you call it a street and one exhibit on another it's called a driveway, I need to understand from the Town, and I'll ask staff, how many units can you have on one driveway because in the past I thought we had a limit of two or three units on a driveway, and we had a requirement on a subdivision to have a 50-foot right-of way, so since it's not a subdivision this becomes a driveway. How do we get to eight units? And, in fact, the applicant, his comments about this, he's got greater width than Mariner or Palms is not accurate. The asphalt might be the same, but they have a 50-foot right-of-way, so my question would be within the 30-some feet that you have, what are we doing for utilities, water, sewer, and stormwater, and how do those easements affect because, as Ms. Fox will tell you, we've had numerous projects in the past where we haven't had appropriate utility easements. So I have no dispute with the broker's opinion of value. I understand the density question.

Ms. Keelin: Sure.

Mr. Shuttleworth: Just kind of trying to focus and make sure we have some consistency on whether it's a street or a driveway. If it's a driveway, how many units, and I'll get these. And I asked staff these questions, which I would read this Council just so everyone had the same answers, but so yes, I understand that you were calculating your density based on 8 into the 58,000 square feet. Not objectionable.

Ms. Keelin: Correct.

Mr. Shuttleworth: Just want to make sure.

Ms. Keelin: And it is not apples to apples. I, I agree with you on that.

Mr. Shuttleworth: Well, and I would look at some of those at ancient Mariner. I just did a quick check on LandGlide, and some of those are 4,200-square-foot lots.

Ms. Keelin: Um hm.

Mr. Shuttleworth: So, I mean, they're not 8,800 or 72.

Ms. Keelin: Right. I think.

Mr. Shuttleworth: So just trying to understand where we're at.

Ms. Keelin: Understood. Mr. Murphy, would it be possible to go back to the original slide from that shows the overall flight plan, the aerial with the flight plan superimposed. From Quinn's. I don't want to belabor the point. I mean what you can see there is, you know, there's this aerial of the existing Palm Breeze below with the proposed project superimposed above there, and, I mean, I think what that tells you basically is just based on visual that there is, you know.

Mr. Shuttleworth: It tells me the asphalt appears to be about the same width.

Ms. Keelin: Well, if you're looking at the asphalt, right. I'll talk about the density. You can just sort of see that regardless of whether you do any sort of calculation on what the square footage is, it complies with the ordinance in terms of density, open space, and so forth, and it fits just visually. It's virtually identical in terms of the cul-de-sac situation. Palm Breeze Drive obviously is a drive, and I understand what you're saying about the width of the actual right-of-way versus the asphalt. I think the point that Mr. Marlow was trying to make was that the actual paved width of the road that allows the traffic, the two-way traffic to interact is not dissimilar from those existing roads. The different question I think you're asking also is where are the utilities going to be?

Mr. Shuttleworth: There's multiple questions I have on that.

Ms. Keelin: OK.

Mr. Shuttleworth: And that's fine. I, I understand your point.

Ms. Keelin: Understood.

Mr. Shuttleworth: And I appreciate the artist concept. I do, but I would say that artist concept versus this concept shows different parking. I mean, it just shows different, and so we'll get to those questions.

Ms. Keelin: OK.

Mayor Pierce: And Steve, are your questions for staff?

Mr. Shuttleworth: They are.

Mayor Pierce: So, we'll get there.

Ms. Keelin: OK.

Mayor Pierce: Just a little bit.

Ms. Keelin: Well I will be somewhat brief here, and Miles, if you could go back to the original plat. What I'd like to do here is just give you a little foundation so that I can introduce these plats as exhibits. This first one is a 1998 plat. It was recorded in the New Hanover County Register of Deeds in book, map book 37 at page 377, and this shows that these three lots that are numbered one, two, and three here, and I don't know if you can see it, but there is a 15-foot access and utility easement shown there on the left side on the north side. Those were the original lots that now comprise the right side of this proposed driveway, if you're following me. Then the next map, which was recorded in 2004 in map book 46 at page 243, in that particular um plat these lots were revised and renumbered, and the access easement, the access and utility easement was increased from 15 feet to 22 feet, and that access easement there was to serve what was called lots 2R and 1R at the time. 2R and 1R now are part of this 1.34-acre tract. If you go to the next map, is that right? There is a 2005 recombination plat that's recorded in map book 47 at page 391, and this is a recombination of the property on the right side of this proposed project. And then finally if you look at the next slide.

Mr. Shuttleworth: Wait, wait. Back up. Just so I am clear on this.

Ms. Keelin: Yes.

Mr. Shuttleworth: Are you're suggesting on this re re combination plat, lot B is now what was previously the remainder of 1R and 2R? Is that right from the previous map?

Ms. Keelin: That is correct.

Mr. Shuttleworth: And then they widened the access back there?

Ms. Keelin: Um hm.

Mr. Shuttleworth: Can you go back two maps?

Ms. Keelin: You want to go back to the 22-foot-wide?

Mr. Shuttleworth: Yeah, no you, either one of those.

Ms. Keelin: OK.

Mr. Shuttleworth: So my understanding the way the Town, and Ed has tutored me over the years, the way that access easement was allowed for the front lot and the two back there is because we were going to allow two residents two structures or two lots. I don't know how many structures or how many units, but we were going to allow two access points off of a

private access. Right, Ed? They said that the way you've explained it to me that we have a private access easement that would allow two, and that would be lot 1R and 2R.

Mr. Parvin: I think that the difference here is you couldn't do this with a subdivision. You could with a planned unit development.

Mr. Shuttleworth: You could do what? Have multiple units on a driveway?

Mr. Parvin: Yeah, with the planned unit development you can have one driveway cut multiple units. With a subdivision you can't.

Mr. Shuttleworth: Perfect. Thank you.

Ms. Keelin: The last plat that I wanted to introduce is a 2006 revision and recombination recorded in map book 49 at page 361, and that shows the property we can get there as it exists today, which is um, I think we'll get there. That's all right. I mean, I think you all understand it's a 1.34-acre tract that has, you know, the drive in the middle, and it was just a combination of all of that, and the point being that um the property, as Mr. Marlow and Ms. Lunsford testified, was not always a single lot or a single tract. It had been envisioned previously as multiple lots in multiple tracts, so I don't know that based on that it would not be a reasonable expectation of any of the property owners fronting on North 7th Street to expect that there would only be one house in the rear because those properties were built before this recombination plat was done. So with that, I don't have anything further, but I would like to reserve my opportunity for a rebuttal and closing arguments.

Mayor Pierce: Yes, ma'am. We'll call you back for that.

Ms. Keelin: Thank you.

Mayor Pierce: Thank you. OK, at this time we'll ask members of the public who were sworn in that want to speak on this development, you would come up one at a time, state your name and address, and we'll I'll ask you to limit your testimony to factual evidence concerning the relevant standards. You must present relevant, competent, and material evidence. So whoever wants to come first.

Erin Delaney: My name is Erin Delaney. I own the property at 520 7th Street, where the easement runs between my house and Ward's house. I am very confused about what is happening with the easement because it was an easement. It was a private driveway. Now it's a street. It's a two-way street. I don't want a two-way street running between my house and Ward's house to eight properties. That is 24 cars. You know, hey that's great. There's no traffic now. It's COVID. Everybody's at home. Everybody's working from home. I'm at home. I'm working from home. You know, awesome, great. You know, we're a family of five. On a good day, maybe once a week we leave our house in our Suburban. My kid is 16. We're gonna have a fourth car. We're playing, we're, you know, when this is all said and done, we're going to be moving out and doing this and doing that. That is ridiculous. I had my property surveyed. That post is a hog's hair from my stake, which is a foot and a half, maybe two feet, from my fence. I

have a pool. I don't want evergreens up against my fence. I have a pool. I don't want roots. I don't want limbs. I don't want trees. We've had three hurricanes, named hurricanes. I don't want big tree damage. I don't. You know, this is my investment. This is my home. I don't know anybody that buys a home thinking, you know, oh hey, look at this great easement. We're going to have eight homes and potentially 24 cars coming in and out. You know Palm Breeze Drive? Hey, great. They have setbacks. You know Joyce and Mike, my neighbors? They have 12 feet. Norma, she's further set back, and her house is like my house where it's on the side, and if I may show you what I'm referring to, you know, this is this is Norma's house. This is the front of her house. This is the side of her house. This is her driveway. This is Mike and Joyce's house. This is my house right here, OK. You know, I don't have feet. There are more feet between these chairs than that easement and my property line, and I just, I just can't. I'm very upset about this, very emotional about this. Now, I actually like Quinn. Quinn did work on our house. I recommended Quinn. You know, I mean, I know he builds good structures. I'm actually wondering why he wouldn't have knocked on the door and said, 'Hey, John and Erin.' You know, the man sat at my table and had tried my mom's balsamic pork roast, her beef roast or something. You remember. You know, I mean, I don't want the noise. I don't want people randomly walking through. I want the land to be developed, but I live at 520. Ward is 526. So in harmony with my neighborhood, which is me and Ward, not streets off of 7th. That means it's 522 and 524 with nice big homes on big lots that are in harmony with my property and Ward's property. Would y'all buy my house if it were for sale, knowing that a two-lane easement, private drive, street, whatever you're calling it, is gonna be put in there with eight homes? Would you? Could you do that in good conscience? No real estate agent is gonna tell me that I'm gonna get, you know, \$550,000 from my home with that going in. I don't want that single family home back there. I do not want the porta-potty a foot and a half from my fence that blows over in the storms, that homeless people use, that random people walk back there just to be nosy. I don't want it. I don't deserve it. I support the community. I pay my taxes. I saved to buy within my means, and, you know, I want something back. Ward deserves something back. You know, we don't have to stuff every single square foot of this island for tax purposes. The lots on 7th Street are big. Those planned communities, they can be stuffed in there. That's not my neighborhood. They're not located on 7th Street. They are off of 7th Street. You know that my property value will decrease. I just, you know, I, you know, the only solace I have is that I know Quinn will build a beautiful home, and it's not personal, Quinn. It really isn't. It, you know, it is business, and it is the business of my investment of my home because everybody buys property as an investment to appreciate.

Mayor Pierce: Does Council have any questions for this witness?

Ms. Delaney: And I invite y'all to come over and look. Come. I'll give you a tour of the easement. I'll show you my property line. There's stakes in it and where they want to build and where my fence is and where my pool is. I already have to get a new liner from the roots that were coming in from behind me, you know. HOA gonna pay for that?

Mayor Pierce: I think you'll hear some discussions about that driveway when we, when we get to staff. I think you'll hear some more discussions about that.

Ms. Delaney: Thank you for listening, and I'm sorry to be emotional, but this is my home and I love it.

Mayor Pierce: We understand. Next.

Ward Basinger: I'm Ward Basinger. I'm 526 North 7th Street. I'm with Erin on this whole deal. My first house was at 507 North 7th Street, and that was the end of the road. My parents give to Town Hall the easement, the road all the way from 507 North 7th Street all the way to the Town Hall right here on the back side. I wish she wouldn't have done it now; we wouldn't even be in here. And then, you know, we did have to sell some land after some when he passed and everything, and when I sold that half-acre behind me where they making it so big, but it ain't numbered a half-acre, we all talked about just having a couple, three houses, three nice houses. That's why you don't need a highway or a drive, you know. It's an easement. It ain't a driveway. It's an easement. if you get 30 feet or 35 feet, you're gonna have to move a telephone pole, a bunch of subpoles, water, two water and sewers, cable, everything else, and the only way you can move it is on my property, and I don't want it on my property. It's on the property line now. If you go to look at it, pull your tape. I just did it about three hours now. I don't want no sidewalks there either. You know, people walking by, the flip-flops on, you know. I like to really on weekends, if I ain't fishing or something, I like to relax, and, you know, you built the garage for the Town Hall, and now you got a North End trash truck coming by there about three times a day, about five times a day on weekends, that's added to the, you know, all the traffic. We just don't need no more traffic. You know, build some nice homes in there, a couple, three maybe, and call it good times. If you can't do it, leave it, leave it to lie. That's about all I got.

Mayor Pierce: Does Council have any questions for this witness? OK.

Mark Campbell: Hi, my name is Mark Campbell, and I live at 105 Palm Breeze Drive. If you guys could show that overhead view of the proposed development, CUP revised one. I want to show you where I live so I can give you some perspective.

Mr. Murphy: That was not part of staff's presentation.

Mayor Pierce: I think we have it here. Is this, I think this is what he's referring to. This one. Yes, that's right. It was in your presentation.

Mr. Campbell: Yeah, so my house is right here, 105 Palm Breeze. This isn't what it looks like. These trees are not there. The hurricanes, they got what was left of those. OK, those are all gone. These two proposed houses, there's 13 feet between the end of this house and the property line, and I think the builder mentioned that.

Mr. Parvin: She's got a microphone, if you want to. I actually have a pointer over here. If you just click that, that middle button right here.

Mr. Campbell: So there's 13 feet between the back of two small homes.

Mayor Pierce: If you would, sir, just speak, speak into the microphone so the people listening online can hear you and we can record.

Mr. Campbell: I'm a teacher. You think I would know better.

Mayor Pierce: I know.

Mr. Campbell: 50 years retired teacher. I still can't do this. Anyway, 13 feet behind from the bottom from the base of this house here and the property line and my, I don't know what the builder was talking about large backyards. Look at my backyard and look at Ann's backyard, the white house next to me. They're small backyards, and they're very close to these proposed houses. My biggest objection is three small houses right there don't seem to fit with the neighborhood or with the development itself. They're just kind of crammed in there. I don't know why. Probably profit, I don't know, more houses, more money. So that's my biggest objective. There'll be right next, there'll be two-story houses. There'll be right behind my house, and of course it's just obvious that more people means more dense, more houses means more density, means more noise, means more light pollution, which means more traffic. And, you know, if you want to take scientific evidence, I think the builder said he went down there to observe the cars. He's biased, number one. How scientific was that? What time of the day did he go? And we got a COVID going on. Nobody's driving anywhere, so throw that one out all together. My wife and I, Jenny, were the first ones to move into Palm Breeze neighborhood, and we moved into it because it was a very beautiful natural area. That big lot behind us that they're going to be building on used to be filled with natural trees and live oaks. When the lady came in, she just mowed all that down. It was all gone all, right, which left our trees. I had two more big trees fall on my air conditioning unit this weekend, so, you know, cutting down all those trees had an impact during the hurricane. So, Miles, when you mentioned that you're recommending this project and the original plan was for 20 duplexes or whatever it was how many duplexes, that was voted down, you forgot to mention that was voted down by the Planning and Zoning Commission because there was such a large outcry, and the second Planning and Zoning meeting also recommended it didn't pass, so they were listening to the people who actually live there but don't have something to gain from it, whether it be a lawyer or a real estate agent or a builder. People actually have to live in this area and, you know, feel like the nature or reason we moved there is going to be gone. I did a little bit of research because I knew I was going to be getting up here and I want to have some evidence, so, I mean, I'm retired, but I'm working 40 hours a week anyway and I had a little bit of time. The average size of the smaller lots, as I understand it from my math, which might be poor, is about 5,600 square feet. The average size of the adjacent Palm Breeze neighborhood lots is 6,800 square feet, so you know those smaller lots are the biggest problems. They don't, I mean, just look at it. Look at the density in that corner compared to the homes in the Palm Breeze neighborhood right behind them. That doesn't fit in with the natural, you know, neighborhood look. I looked in a study by New Geography magazine that said traffic congestion increases whenever high-density policies are imposed wherever you are in the world. According to a 2019 article in Urban magazine, the presence of green spaces and urban planning and buildings helps reduce the city's temperature by an average of one degree. Plants and trees also act like a filter for harmful air pollutants. And, you know, leaving that place as a green space would be the best thing, but at least getting rid of those three small homes would help the situation, right, and if he's going to plant these trees, what's to say they're not going to be knocked down in a hurricane, and then the builders, I mean, the people that move into these homes, are they going to put those back up? Is there any requirement you have to put trees back up if they're knocked down? I don't think so. Just one or two more things. We don't have a lawyer to represent us. We're just the people who have to live here in this neighborhood, but I'll tell you what. We're overwhelmingly against this. There's no doubt about it, and, you know, we're the ones that have to. I love some of the things you

guys have been doing with the bike paths and, you know, the green belt area over there, but this is a step in the wrong direction. This is more concrete and mortar. It does not fit in with the look of the neighborhood, and I really beg you to vote this down, OK? Thank you.

Mayor Pierce: Are there any questions for this witness? OK.

Norma Weeks: Hi, my name is Norma Weeks, and can you hear me OK?

Mayor Pierce: Yes, ma'am.

Ms. Weeks: And I live at 516 North 7th, and I'm gravely concerned about this proposal. My main concern is the increased traffic that this project will bring, in this case adding a minimum of 24 vehicles to an already busy street, and it is a busy street. The three neighborhoods on these two blocks of North 7th Street make for a lot of traffic daily, but the street is also used by the Town's maintenance vehicles and others, which go back and forth all day long. Not only does this scenario make up for a very dense and noisy neighborhood it will be more dangerous for folks who are out biking, walking, walking their dogs. I am a lifelong resident of Carolina Beach, and as such, I have a vested interest in this Town. Over the years, my husband and I built three residences in Carolina Beach. We raised our three children here and owned and operated three businesses. I've loved living here since the days of the one traffic light. Members of the Town Council, please put a stop to this proposal and others like it. Let's slow down and think about the safety and well-being of the residents and decide whether it would be an asset or a detriment to our Town. Thank you.

Mayor Pierce: Are there any questions for Ms. Weeks? Thank you for coming. Anyone else would like to speak?

Roshell Heckendorf: My name is Roshell Heckendorf. I live in the Palm Breeze neighborhood as well, 116 Palm Breeze.

Ms. Fox: Will you pull that mic down please?

Ms. Heckendorf: Is that better?

Ms. Fox: Yes, thank you.

Ms. Heckendorf: So some of the questions that I have are actually about the specs themselves of it. These houses are expected to be around 1,800 square feet. That doesn't include the garage, from what I understand, so you're going to take some of that off your square footage, and there's no room for expansion in these houses. Currently there are 56 houses in the Olde Mariners, 7th Street, Palm Breeze, Island Palms subdivisions. Of these houses, seven are on a slab, which is what these are proposed to be. The rest are on pilings and not in a flood zone, so they have the potential to be expanded on below for additional square footage or they already have been expanded and have additional square footage included in that. So given that, these houses actually are going to be smaller potentially in the long term, and my question is how will that not adversely affect our property values? Another concern I have is with the lot size. There

seems to be a big focus on the 15 houses on an acre, but what isn't figured in is the access to these houses. Since the property's landlocked, a good chunk of the property is a road or driveway, and there's no way around it. According to the Carolina Beach Municipal Code Article 3 Section 40-66, the right-of-way, public or private, for streets and roads shall not be considered a part of a wider open space. The application says that open space is 88 percent, but nowhere in the square footage is the percentage of the roadway or driveway mentioned. It seems that that's included as part of the open space. Is this allowable? Is that something that can be considered?

Mr. Murphy: It's included, and I'll answer further staff questions later, but is included in the overall. They exceed the 25 percent regardless of the driveway component

Ms. Heckendorf: OK, all right. But is pavement included as lot coverage?

Mr. Murphy: It's lot coverage? No, ma'am. It's structures over 30 inches in height.

Ms. Heckendorf: OK.

Mayor Pierce: I'm sure that Miles is taking notes on questions that you guys have, so when we go back to staff he'll answer those questions.

Ms. Heckendorf: That's excellent. And then it also says that the houses have 5,000-square-foot minimum lots, so there are no lot lines on those, but I did use a measuring tool in Adobe and on the scale drawing provided and in the application and just based it on the fence lines. Only three of the lots have more than 5,000 square feet when you do the markings on the drawings, so I wonder are they figuring the pond and the road is a common area for that or is that added to this is that going to add to the square footage to make that 5,000 square feet, and if that is the case, how do these houses, in fact, have their own lots?

Council Member Shuttleworth: So they, just to help you on that, that was my question. These are going to be townhomes, and so what happens is you have one big lot, 58,000 square feet, and then they'll get a footprint deeded to them as a townhome. That's typically how that would be done, so the footprint may be 900 square feet or thereabouts. It may include their driveway, so they would own, you know, 1A or 2A or 3A or whatever it is, but it's going to be a planned unit development, so you have one parcel and then you have a footprint for each one of those. The owner would own everything underneath their structure. Everything else is going to be a common area, so the common area would include the pond, anything that's not covered with an individual structure. The common area, I'm guessing what Miles is going to tell us, is that includes all of the pavement that will be maintained by the HOA. What Miles has said is that they still they meet their open space of green by 22 or 25 percent. If you add all the asphalt and everything else they're at 88 percent. I agree. You take that out, they actually have enough open space, but you're on the right track.

Ms. Heckendorf: OK, but they're single-family homes, not townhouses, correct?

Mayor Pierce: We'll answer that.

Mr. Murphy: They are single-family homes. A townhome means using it as a legal description as opposed to a description of the units themselves. These are single-family.

Mr. Shuttleworth: It'll be a single-family home, and they'll own their footprint.

Ms. Heckendorf: OK, all right. I just wanted to make sure I understood that correctly. And then, I guess my concern is too is upon resale how will that work and be in our favor since they don't actually truly seem to own the same chunk of property that these other subdivisions do? I mean, that's gotta affect property values.

Council Member Shuttleworth: I'm not an attorney, so I would have to defer to our Town Attorney or someone else if you want to explain it or not.

Ms. Fox: I was just going to remind everybody that testimony has to be on the four general and seven specific standards and that you are speaking at public comment, so direct your questions to Council and then staff will follow up with them.

Ms. Heckendorf: OK, all right. Thank you. Sorry about that. And then that was my question about that, and then the other question I have is the driveways. It didn't show the specs on all of the driveways for all of the different develop, for all of the different houses. It just did on the first three. Those do seem to have the allotted amount, but on four of the five driveways didn't show measurements. Again, I used that Adobe tool to get it, and they're less than 20 feet in length, and you can even look and see how short those driveways are compared to other driveways. They're less than 20 feet in length. A standard-bed crew cab pickup truck is over 20 feet long, so how, are pickups going to be banned through this, or how do they park without creating a safety hazard by being in the street? I guess we'll, does that meet the criteria for sufficient parking that's required?

Mayor Pierce: So we'll have Miles address all those questions that you have when we go back to staff.

Ms. Heckendorf: OK, excellent. And, I mean, I've heard that Marlow Construction does quality work, and I hope they can do it in there. I just feel like there's a lot of unanswered questions at this point, and from what I understand there aren't any other developed single-family developments quite like this in Carolina Beach, so that being said, this decision sets a precedent for future development, and I just ask that the Town Council gets answers to these questions before they let this go through. And that's all I have.

Mayor Pierce: Does Council have any questions for this witness? OK, thank you.

Ms. Heckendorf: Thank you.

Mayor Pierce: Anyone else?

Mary Jean Aydelotte: My name is Mary Jean Aydelotte, and I live at 106 Island Palms Drive. I can't say too much more than anyone else has. My point was also that this development sets a precedent that I haven't seen in all of Carolina Beach. I've only lived here at four and a half years now, but I've driven all over the island and I see nowhere else where a private driveway services eight single-family homes in one spot, and I feel like that is not in keeping with the harmony of the area. I also am concerned about the fact that they've said there's no signage proposed at the moment. I would hope that if this does go through that they would at least propose a stop sign at the end of a driveway where 24 cars are going to go in and out. I don't know whether there's going to be a name for this particular road or if anybody's going to even have an easy time finding it off of 7th Street, as it is sandwiched between two other homes. I really came in support of people in my neighborhood, of Ward and Erin who live on either side of this driveway, and I hope that the Council will consider that they are setting precedent for a driveway servicing eight single-family homes when this hasn't been done, to my knowledge, before in Carolina Beach. Thank you.

Mayor Pierce: Does Council have any questions for this witness? OK, thank you, ma'am. Is there anyone else who'd like to speak? OK, Ms. Keelin, for your closing arguments.

Ms. Keelin: Well first of all, thank you all for your for your time and patience and obviously good attention to all of this, as I can see, and I appreciate all the comments that have been made by various members of the public who have an interest in this project. As I said that I was going to do, I want to go ahead and formally ask that all of these slides and other documents that have been presented, including the agenda packet, be formally accepted into the record. Would also ask that Ms. Lundsten's testimony evaluation be accepted as expert testimony. I believe she adequately laid a foundation for her qualifications. And also to renew my objection to the testimony that did consist of, and I'm not diminishing it, but that consisted of emotional and fear-based and speculative concerns. Again, I'm not diminishing it. I'm a person who has a home, and I understand all of that, uh but this is a quasi-judicial proceeding in which there are specific requirements that the law requires that have been stated and reiterated by our courts multiple times, as I mentioned, most recently in a pretty significant case in April of 2020. So, although I certainly don't want to diminish any concerns, it is the law that, again, fear-based speculative opinion-based testimony about what could happen is not something that can be considered. So you have heard interestingly from some of the opposition that Marlow Construction does have a stellar reputation who is known to build quality products, and I think that's interesting and I think that that is testimony that we had not even presented, but it has been presented to you. He is willing to exceed existing requirements for development of this tract of land. If this project isn't approved, and I believe that it needs to be based on the law, somebody's going to come behind Marlow Construction Company, and eventually something's going to be developed there, and it may or may not be with someone who has the type of quality reputation that Mr. Marlow has with his company. It may or may not be someone who is willing to listen to concerns and accommodate those. The evidence that you've heard from Mr. Miles, from Ms. Lundsten, from Mr. Marlow, and from myself does constitute competent, material, and substantial evidence regarding each of the specific standards and the general standards. I'm not going to repeat all of that, but I just want to point out some of the larger pieces of that. I know you're going to have more conversation about the street, the road, the driveway, the easement. The reality factually is that it is wide enough, the pavement is wide enough to accommodate two-way traffic. There is a cul-de-sac similar to Palm Breeze that

accommodates emergency vehicle turnaround. Um in that regard, it has satisfied the requirement. The applicant is not required to anticipate or disprove every single general consideration that could come up. They're not required to negate every possible objection to a proposed use. What the applicant is required to do is address what the ordinance requires. It's not a public comment period on whether the policy is appropriate. It's not a public comment period on whether or not this property should or should not be within a conditional-use permit district. It is. It is, so if this Council is satisfied that the testimony and evidence that has been presented tends to show that compliance and also believes that the opposing testimony is not sufficient to counter it, then the permit needs to be issued. Again, we've talked about some of the concerns that have been raised. I know there was confusion regarding whether or not this is a subdivision and has to meet subdivision requirements. It is not. It's clearly not a subdivision. It's a planned unit development. Planned unit development has different requirements. Um there's no 5 000-square-foot lot requirement because there are it's not going to be divided into lots. If that were to come before you, that would be a whole different set of requirements, but that's not the case here. Um to the extent that there has been confusion about that, I hope I hope that clears it up, and I do appreciate uh, Mr. Shuttleworth, your sort of recitation of what this will look like. These are single-family residences. To all outward appearances, there's no difference than difference than walk driving into a regular subdivision. It's a legal term, and correctly there's a homeowners association that would be developed that would have responsibility for the road, responsibility for any street lights, responsibility for the stormwater pond, all of those things. And again, this is permitted under the existing zoning ordinance so long as these conditions are satisfied. Some concerns that have been expressed previously in Planning and Zoning meetings, which I'm saying this not for your benefit but makes for the benefit of maybe others who are listening, the Planning and Zoning Commission doesn't, of course, have the authority to approve or deny something. It's an advisory board, and so to the extent that they made recommendations, that's what they were, so obviously this Council is the body charged with making this actual decision. We talked about a new fire hydrant will be installed, another safety requirement that would be satisfied. We talked about a central location for mail pickup that had been a concern that was addressed. Trash pickup will be at each individual residence, just like the neighbors, uh and the trash receptacles will be shielded from view. Those are things in excess of what is required but things that this applicant is willing to do. There is evidence tending to show that the project will not materially endanger the public health or safety, that it meets all the required conditions and specifications, that it will not substantially injure the value of adjoining or abutting property, and let me pause on that one. I understand that there is speculation that things may happen in the future, but you have heard no evidence, no factual evidence, no expert opinion evidence that any damage would happen to these neighboring properties, and that is the requirement, so it's not appropriate to consider speculation or lay opinion. And you also heard evidence that the location and character of the use will be in harmony uh in which this area is where it's located in general conformity with the Town Land Use Plan. All the setback requirements are met or exceeded. All buffer requirements are met or exceeded. You saw from the aerial photographs what this property looks like above. You've seen the site plan. You've heard the testimony of Mr. Murphy that, maybe twice or three times now, that lot coverage, and again this is based on these regulations and ordinances, not on subdivisions, the lot coverage is much less than the 40 percent that is allowed. The open space is much less than the 25 percent that is allowed, and theoretically, if all requirements were met, 20 units could be built on this 1.34-acre tract, so this applicant has met its burden of production. Um he's entitled to the permit. There has been no competent, material, or

substantial evidence tending to support a different outcome, and we just respectfully request and submit that this applicant is entitled to have the permit issued. There any questions?

Mayor Pierce: Any questions for Ms. Keelin? Thank you.

Ms. Keelin: Thank you very much for your time and consideration.

Mayor Pierce: And I see Miles is ready to speak, so, Council, if we have questions for staff, or you want to let him present some of these questions?

Council Member Shuttleworth: I think we close the public hearing and then we go to the discussion. Is that the right?

Ms. Fox: Yeah, you can close the public hearing but leave the evidentiary hearing open.

Mayor Pierce: Yeah.

Ms. Fox: So that Miles' testimony if you have additional questions it would have to be considered evidence.

Mayor Pierce: OK.

Council Member Shuttleworth: Sounds good.

Mr. Murphy: Well I don't have additional presentation. I'm just.

Mayor Pierce: Do you have any of the questions that the public asked, any answers to any of those questions?

Mr. Murphy: Well, I've already addressed some of them out of order. I should have waited for this time, and I do apologize for that. One of the biggest has been, I believe, addressed by Mr. Marlow's attorney as well as Mr. Shuttleworth, that this is a planned unit development and not a subdivision. There are no individual lots. This is not a town or private right-of-way. This is a driveway for a planned unit development. It meets the requirements for two-way traffic, and they meet the open space and lot coverage requirements for a general zoning for the general zoning of the R-1 zoning district, but it is not the same as if they were all being divided into individual lots like a subdivision. I think that's one of the biggest confusions over this overall process. Now most of the planned unit developments we see in this Town are two-unit developments, such as the recent approval for the business planned unit development at 1012 Lake Park Boulevard South, as well as the three, well technically three-structure six-unit residential planned unit development that took place on Carolina Beach Avenue North. So most of them are of a smaller scale, but we have several planned unit developments around the Town. It's simply that this is a, as Mr. Marlow's real estate witness testified, is a very large, unusual parcel that is being treated according to the requested permissions for a planned unit development as opposed to a subdivision. I'm happy to answer any further questions, but I believe that was.

Mayor Pierce: So, Miles, I have a question about what would the speed limit be and who would set that speed limit for that? It, would there be a speed limit, and would there be a stop sign?

Mr. Murphy: There would absolutely be a stop sign to exit and enter that neighborhood. We can't, it would be up to the Council's discretion as to whether we'd want to require one on 7th for traffic going in either opposite in the perpendicular directions. The speed limit would be up to the HOA, though. It's a private driveway. If they wanted to issue it a neighborhood HOA speed limit, they absolutely could.

Council Member Shuttleworth: So, Miles, can you give me an example of another driveway that has a stop sign?

Mr. Murphy: Completely honest, sir, I cannot in Carolina Beach.

Council Member Shuttleworth: I can't think of another driveway that has a stop sign. Can you tell me where the water and sewer utilities are going to run in this driveway?

Mr. Murphy: My understanding is that they're going to be going through the edge of the driveway themselves.

Council Member Shuttleworth: So do we have a 30-foot easement for utilities? I know when we did The Grove we ran into some problems back there, and Gil came back and wanted a 30-foot sewer easement because he had to put a sewer line in the ground, and he wanted to be able to put a truck 15 feet on each side of that. I think we negotiated a 20-foot easement, but there has to be a utility easement. So if you have 32 feet and 22 of it is asphalt, technically, Mark, you want to come up and tell me where you think you're going to put water and sewer utilities?

Mark Meyer: Technically I can't answer that question. Sorry.

Council Member Shuttleworth: OK, next question I have, Miles, as I was reading in there, there's something about a, is it a grinder? Talk to me about the sewer. Was it a grinder pump that we're going to do and do a low pressure into a one sewer line that each one of these units? I'm just curious on how the utilities are going to serve this lot. OK, and then I would also ask you, I understand they don't have a stormwater permit yet, but when you look at this pond, there has to be an outfall. There is no public stormwater on 7th Street, so where do you think that outfall's going to go because having done research before on this property, there is no good outfall for this stormwater. So, I mean, maybe you or Ed or Jeremy can tell me. I know they have to go get a stormwater permit. They can't move forward without it, but.

Mr. Murphy: Well there are aspects of this design which may cause them to diminish in size based on stormwater requirements and utility requirements. They're coming in for the site plan approval for the maximum.

Council Member Shuttleworth: During the TRC process, did you not ask them where they anticipated an outfall because there is no public stormwater on 7th Street, so putting it all in a

pond over here and then piping it somewhere, they can't pipe it to 7th Street. The map doesn't show a proposed easement for stormwater, so I'm trying to understand where you think having approved this through TRC and you guys, all the technical people looked at it, where you think. I know the size of the pond. They'll have to go through state calculations. They're going to have to say this is our impervious. This is why the pond size that way, but just a general look at it. Where do we think it's going to outfall?

Mr. Murphy: To be completely honest, I'm a zoning official giving this presentation.

Council Member Shuttleworth: Fair enough.

Mr. Murphy: Cannot get into the stormwater specifics. That'd be Mr. Stanberry or Mr. Dudenhaver.

Mayor Pierce: So.

Council Member Shuttleworth: However, as the Planning Department, you were in charge of going through the TRC process and approving a TRC plan and making comments, so I would have thought during the TRC process at the Planning Department you guys would have asked for input from those departments.

Mr. Murphy: We did ask for input, and the input was that they would require a state stormwater permit, which would control the nature of this development moving forward and that the development might change in size or orientation in a smaller manner based on the feedback from state stormwater for that design, but Jeremy might be able to comment further on that.

Mayor Pierce: So, just a comment based on what Steve just said. It's very difficult when Council gets to this point and what you're recommending approval and we're assuming that all that work has been done and that you're recommending this project for approval, but we still seem to have a lot of questions about will it work as presented or not.

Jeremy Hardison (Planning Director): At this point, this is not a fully engineered project. You're approving a site plan, and one of the conditions is a state stormwater permit that has to meet certain specifications. This was presented as a self-contained stormwater pond that would have to meet those certain aspects.

Council Member Shuttleworth: So your anticipation is it's an infiltration pond. It's going to collect the water and infiltrate and not just not leave the site?

Mr. Hardison: But this is what the engineer designed, but yes, sir.

Ms. Fox: So just a reminder that when you approve or then that will, when you approve a conditional-use permit, this one or other, that the applicant has to then meet all these requirements that are mandated by state, so this is not a site-specific development plan that you're looking at. So they're going to have to get a storm, they're going to have to get approval

from the stormwater folks. They're going to have to get approval from the Town if they need the easements for.

Council Member Shuttleworth: So, Madam Attorney, I'm confused by that statement. I thought this was a site-specific plan that we are approving. It shows eight footprints.

Ms. Fox: This is a planned unit development, so this is not a, Ed, could you, Ed, you wanna jump in? But this is not.

Council Member Shuttleworth: I understand that they have to meet the stormwater. I get that, but we've gone through a gyration here for eight months on this project with staff, with residents, with Mr. Marlow, and to have a critical element that's glaring out there, and staff's aware of that issue. That's my point. Staff's been aware of a stormwater issue on this project for a period of time, so I I'd want at some point I would like to hear from someone on staff that's sworn in or get them sworn in. When I read the comments about a sewer system out here, we fought awful hard on the other projects right back over here because the Town historically hasn't had the appropriate easements to maintain our infrastructure. So if it's a private driveway and we're going to put public utilities in that driveway, is it outside of the pavement? Is it an easement? What's the width of it? I mean, I think those are legitimate, factual questions on a site plan that we're looking at. I'm not saying they can't be accommodated. I'm just saying I don't see the answers here, especially if you're putting 6 feet of buffer on both sides.

Ms. Fox: Well let's get you the answers.

Council Member Shuttleworth: OK, and I have another question.

Ms. Fox: So if you could swear in.

Mayor Pierce: Hang on.

Ms. Fox: And the Council wants to hear from.

Council Member Shuttleworth: You have a 4-foot sidewalk on either side of the drive aisle along the 7th Street right-of-way. Can you explain to me, are we you running a sidewalk on this private driveway or are you running it toward?

Mayor Pierce: Hang on one second, Steve. Who's not been sworn in? Why don't you swear in the rest of the staff you want to talk to? That good?

Ms. Fox: If the applicant's attorney doesn't have an objection to these witnesses being called.

Mayor Pierce: Oh, sorry.

Ms. Keelin: No objection from us.

Mayor Pierce: I don't think Council is clear unless we get that.

Council Member Shuttleworth: Am I making a mountain out of a molehill? Do you guys?

Mayor Pierce: Well, we're dependent on staff. OK, so who do you want to talk to, Steve?

Mr. Parvin: I can start it.

Mayor Pierce: OK, great.

Mr. Parvin: Mayor, Council, what you have before you is a zoning site plan approval and, we typically do these conditional-use permits, when you when you're approving a conditional-use permit we do go through a TRC process and we do look at some of the basics for water, sewer, stormwater that we're having discussions about, but the only thing the applicant is required to provide in this process is the zoning, approve of the zoning requirements. They're not required to go through, as the attorney's point now, all the nuances of the water, sewer, stormwater. We do talk to them about what that's going to look like, so that is something that we've had discussions, but there will be a condition, one of the conditions of the CUP is they will have to get all those state, local, or federal permits and make sure that that is in compliance with the overall zoning approval. So that, all those all those nuances will be addressed and is addressed in your conditional-use permit.

Council Member Shuttleworth: Ed, who issues our water and sewer permits? Are these County permits or City of Town of Carolina Beach permits for water and sewer?

Mr. Parvin: For the Town?

Council Member Shuttleworth: The water and sewer. They're town permits, so the Town's going to approve the design. Is that right?

Mr. Parvin: Right.

Council Member Shuttleworth: OK, stormwater. I saw in here you said they have to get a state stormwater permit. Is that because we're over a certain size or has Brian decided he wanted to go get help because he's approved other projects that are this much internally, so is there a reason why you said he has to get a state stormwater permit because we issue our own stormwater first?

Mr. Hardison: It's a state stormwater is permit would be required because of the scope of the project. Now we do have the authority as a Town given us to the state to issue a state stormwater permit.

Council Member Shuttleworth: And 90 percent of the permits that we issue in Carolina Beach for stormwater are issued by us on a state permit. Is that right? I mean, very rarely.

Mr. Hardison: Majority. Yes, sir.

Mayor Pierce: So, well, we're not in deliberations, so we'll get there. Are there any other questions for staff? Did you have a question for Mark?

Council Member Shuttleworth: My question was on the sewer. What was I reading in there about the sewer and a grinder pump or a pump system? That, to me, would denote that we have some kind of private infrastructure.

Mayor Pierce: And, Mark, for the public, can you tell them who you are, what you do for the Town?

Mr. Meyer: Mark Meyer, Director of Public Utilities, Town of Carolina Beach. From the depth of the sewer main on 7th Street that it would require them to have individual or a single pump station or individual grinders at each home and then have a private force main out to 7th Street.

Council Member Shuttleworth: Right.

Mr. Meyer: To meet the manhole.

Council Member Shuttleworth: Which is a perfectly acceptable design.

Mr. Meyer: Yes.

Council Member Shuttleworth: It's done all over the county. It's done in Brunswick County. It's not uncommon. I just want to make sure we understand.

Mr. Meyer: Yes, sir.

Council Member Shuttleworth: So that would be a private sewer line.

Mr. Meyer: Yes.

Council Member Shuttleworth: All the way out to the public.

Mr. Meyer: Yes, sir.

Council Member Shuttleworth: So there would not necessarily be the need for the Town to go in and repair that sewer line.

Mr. Meyer: You are correct.

Council Member Shuttleworth: How about the water?

Mr. Meyer: The water, if this were to be a private driveway, we would put a bank of water meters at the edge of 7th Street, and they would be required to run the services to the individual homes. We would not.

Council Member Shuttleworth: So you would put seven water lines down that driveway? Eight?

Mr. Meyer: Three-quarter, 1-inch lines. That's not unheard of.

Council Member Shuttleworth: But we'd run eight 1-inch lines down the driveway?

Mr. Meyer: We wouldn't. We wouldn't run anything.

Council Member Shuttleworth: I understand.

Mr. Meyer: We would set meters on the edge of the road in the right-of-way on 7th Street.

Council Member Shuttleworth: So there would be a gang box of eight meters somewhere in that 32 feet?

Mr. Meyer: We could do four on one side. However it would be laid out.

Council Member Shuttleworth: OK.

Council Member Barbee: What about other services? What about, so I assume the way this is laid out this would be one address from legally right at the end of that driveway and then these would be units ABC 123, however they numbered them, right? That would be their legal.

Mr. Meyer: That would be a planning issue.

Mr. Murphy: That's generally how.

Council Member Barbee: Well, where I'm heading is trash service. So they show their trash around at each lot. Are we going onto that private drive to pick up garbage and refuse, or is it got to be at the end of the street just like sewage and water? Seems those two should be consistent.

Mr. Meyer: I would have to look into that. I do not know that.

Mr. Parvin: They would have ability to go on the drive, and we do have other planned unit developments that have been, there's several on Spencer-Farlow. We we're just talking about that.

Council Member Shuttleworth: Right, there are on Spencer-Farlow. There was one down there, and I thought we limited the number of units on that private drive to three. It was a private driveway. Did those three nice little town patio homes, townhomes, whatever you want to call them. They're little single-family houses. They're really cute, similar to what Marlow builds, but you limited it to three. It was a private driveway. It was a PUD, and you came back and said three.

Mr. Parvin: Because of density requirements.

Council Member Shuttleworth: OK.

Mr. Parvin: It was R-2, right? So R-2 is 8.7 versus 15 units.

Council Member Shuttleworth: Three on driveway. OK.

Mayor Pierce: Do we have any more questions for any of the parties involved?

Mayor Pro Tem Healy: I do have one question about the particular driveways going to the house. I forget who mentioned it that a truck is more than 20 feet long. Are these driveways, do we know that they're going to be able to handle vehicles?

Mr. Murphy: The parking spaces required by the Town are 9 feet by 18 foot long. Those are standard zoning parking space requirements. We don't dictate it based on the size of vehicles purchased. It's a, once again, it's a theoretical scenario. I mean, we have parking up and down in and out throughout the Town where three parking spaces are required for a four-bedroom home for one person who lives there versus, you know, a same number of people with five people living there. The parking fluctuates. It's just a general parking requirement for three 9 foot by 18 foot spaces for a three- to four-bedroom home.

Mayor Pro Tem Healy: Thank you.

Mr. Murphy: Yes, sir.

Council Member Barbee: And I had one more. What, if you mentioned I apologize, but what was P&Z's recommendation on this?

Mr. Murphy: P&Z's most recent recommendation was a split vote.

Council Member Barbee: So they didn't make one?

Mr. Murphy: They, yeah, there was three yeas and three nays at the most recent meeting for the eight single-family units.

Mayor Pierce: OK, anymore questions? OK, so if not we'll move into our deliberations. So I'm going to ask the Town Attorney to give a brief review of the task at hand, and before you do, Attorney Fox, would you, the way I understand, and correct me if I'm wrong, that we are looking at whether or not they have the right to do this within our zoning code, and what permits they'll need past that will be required by the state and staff, so if you can.

Ms. Fox: They haven't, you have already legislatively determined that this use is allowed in the Town but subject to a conditional-use permit, so those standards are already set out in the Town's code. In addition to that, in which the grant order will include, they will have to get all of

the permission slips from all the state agencies. They are required for them to eventually be able to sell these homes, so that is a standard provision in a grant order. I think staff has also requested as a condition a 4-foot sidewalk, which that was on the motion. Other than that, I don't know if there were any other conditions that were requested by staff.

Council Member Shuttleworth: I had a question about the 4-foot sidewalk.

Ms. Fox: OK.

Council Member Shuttleworth: Is that along both sides of the driveway, or is it just on the remnants of what it fronts on 7th Street?

Mr. Hardison: It is off 7th Street within the right-of-way.

Council Member Shuttleworth: Well, it's not a right-of-way because it's a driveway.

Mr. Hardison: 7th Street is a right-of-way.

Council Member Shuttleworth: Right, but they have 32 feet. He's going 22 of asphalt. Are you asking him to put 5 feet of sidewalk on each side? Are you asking him to run it two blocks one direction?

Mr. Hardison: No, it would just be the frontage that the property is on 7th, so it would be his drive.

So he's got 32 feet less 22. You're asking him to put 5 feet of concrete on both sides of this drive.

Mr. Hardison: I think it would be about 6 feet, but yes.

Council Member Shuttleworth: Is it going to connect the sidewalks, or is it just going to patch that one little spot?

Mr. Hardison: There is a driveway into Olde Mariners.

Council Member Shuttleworth: In front of the other residents over there, the gentleman that spoke, does he have a sidewalk in front of his property?

Mr. Hardison: He does not.

Mayor Pierce: So that's not.

Council Member Shuttleworth: Does the lady on the other side have a sidewalk in front of her property?

Mr. Hardison: No.

Council Member Shuttleworth: So we're gonna have a gap. We're gonna have a sidewalk that Jasmine tells me from time to time she takes a picture and shows her kid walking on a sidewalk and it stops right at that gentleman's house.

Mr. Hardison: Yes, sir. Every chance.

Council Member Shuttleworth: And we're just going to have to put two 6-foot sections in the middle of the street.

Mr. Hardison: Council can certainly waive that requirement.

Council Member Shuttleworth: I understand. I just want to make sure I'm saying.

Mayor Pierce: So we know that, but why did you ask for it would be my question.

Mr. Hardison: Staff's recommendation is whenever we can get sidewalks, we want sidewalks, and our Bike and Ped Plan states that sidewalks is a desirable location on 7th Street.

Mayor Pierce: And looking at the map, that sidewalk would join into, well let's take Mr. Basinger's property. Would it go into his driveway because it does not look like it can continue on through Olde Mariners?

Mr. Hardison: It would stub out into his property, but which is in the right-of-way.

Mr. Parvin: And it picks back up at Olde Mariners. There is one there.

Council Member Shuttleworth: Right, so there's a right-of-way in front of Mr. Basinger's house, so theoretically if someone wanted to extend a sidewalk from this driveway all the way to the existing sidewalk, they could do it in the public right-of-way, even though it's in front of someone else's house. It's not there today. It's in the right-of-way.

Mr. Parvin: Right.

Council Member Shuttleworth: Is that right?

Mayor Pierce: And the same on the other side. It would go through this lady's property through the driveway and stop at the next house?

Mr. Hardison: Correct.

Mayor Pro Tem Healy: Actually, I think they're just talking about putting.

Council Member Shuttleworth: He's just talking 5 or 6 feet on each side of the driveway. That's it. It wouldn't go in front of Basinger's, and it wouldn't go in front opposite.

Mayor Pierce: I gotcha.

Council Member Shuttleworth: Delaney's house. Is there sidewalk south of your house? So it just stops north of Basinger.

(inaudible comments from Mr. Basinger)

Ms. Fox: Sir, sir.

Council Member Shuttleworth: Stop right there.

Ms. Fox: You can't, yeah, we can't hear any conversation from the audience at this point.

Mayor Pierce: Gentlemen? Discussion? Where you wanna start?

Ms. Fox: So just as a reminder, before you begin your deliberations, it's been stated four or five times tonight, I always do this at the beginning of our hearing and I always do it at the end, so that's not specific to this matter. It's specific to all matters for conditional-use permits. You cannot, Council, base your decision on personal preference. This is not a legislative matter. You cannot have bias. You must focus on the specific standards and general conditions. You have to weigh the evidence that was presented tonight, and you have to base your decision only on the competent, material, and substantial evidence. Just so you know from the court's perspective, competent evidence is trustworthy and reliable. It is not opinion testimony of lay witnesses on the use of a property in a particular way affecting the value of other property, the increase in vehicular traffic resulting from proposed use potentially posing a danger to public safety, or any other matters which an expert was required to testify or to be admissible in a court of law. Material evidence has been determined by the court to be evidence that addresses the general and specific standards, so you should reference those standards tonight, which, of course, I think the staff has on their PowerPoint in discussing your deliberations.

Mayor Pierce: Discussion?

Council Member Shuttleworth: So, Ms. Fox, unless we've heard direct expert evidence that this project does not meet the character and harmony of the surrounding area, if we have not heard expert witness to that fact.

Ms. Fox: It doesn't have to be expert, oh, excuse me, I interrupted you, but all testimony doesn't have to be expert testimony, but there are some things that the court has said that experts must testify on: real estate appraisals.

Council Member Shuttleworth: Right.

Ms. Fox: Real estate brokers, appraisers, license credentials. We've had them appear at our hearings before.

Council Member Shuttleworth: But harmony and conformity is subjective?

Ms. Fox: It is more subjective. Legislatively, when you put this in your code as a permitted use by conditional rights, the Council at that time legislatively determined that there were some things that were in harmony with the R-1 district, just by putting that in your in in your code. When the public hearings took place and you adopted your code, you have determined that there was harmony for some factors at that time. That doesn't mean the things haven't changed in some respect, but any evidence that you are considering must be competent and material and substantial.

Mayor Pierce: So I hear you saying that as far as to devalue someone's property, they would have to have an expert witness testify about devaluing the property.

Ms. Fox: That is correct.

Mayor Pierce: Where we heard someone testify that it valued the property. It would not.

Ms. Fox: You can only consider expert testimony that would be admissible in the court on something such as value.

Council Member Shuttleworth: Well, there's two ways we can handle this, Madam Mayor. We could have a motion and then see how the vote goes and have that discussion, or you can have a discussion to try and formulate a motion.

Mayor Pierce: Well let's talk about it for just a minute. Does anybody have anything they want to bring up or things that would help us maybe have some vision one way or another?

Council Member Barbee: I mean, I'll tell you where my head is. I get the property owners' concerns. The difficult part of sitting here is, as Attorney Fox said, my job is not to determine whether I like it. It is to determine whether they've met the burden whether it meets ordinance, basically, that they follow the law. So this is one of, we get these every now and then that are really tough that, you know, I mean, but that's where my head is. I think they've met the requirement, whether I personally like it or not.

Mayor Pierce: And so with that comment being made, it's not about how we feel or whether we like something or not. We have to go by what law is in, we have to abide by the certain four specific standards or seven specific standards and four general conditions that we have in front of us. Each one of us do, and I'm sure we're all reading them. Does anyone else have any comments or? Steve?

Council Member Shuttleworth: I would like to know from staff what a material change is to a PUD. If this should be approved, what would be considered a material change that would require another hearing or a modification of the PUD?

Mr. Hardison: Any expansion in the footprint, density, lot coverage would require it.

Mayor Pierce: But not a reduction. Any increase.

Mr. Hardison: No, they can always reduce, but once you increase then that'll be considered a modification to the approved plan.

Council Member Shuttleworth: How about utilities and stormwater?

Mr. Hardison: They'll have to be done per design by state requirements or Town.

Mayor Pierce: So no matter how we vote tonight, if we were to vote in favor of the project, that doesn't mean they're going to get permitted for everything.

Mr. Murphy: Correct, it's actually.

Mayor Pierce: Still has a lot of hoops to jump through to get there.

Mayor Pro Tem Healy: So I will say one thing. They've met all the standards for the CUP. That's, I mean, there's no question that they've actually gone above and beyond as far as being a good steward to the community. And what strikes me is that the good things that they said about Marlow Construction, to me, is worthy. It is. I think it's up to them, it's up to Marlow Construction if they get approved for them to go through the permitting process, the stormwater, the power, everything. So the law basically says that we should approve this. Now it doesn't mean that it's going to take place because they still have to go through the gamut, but I would recommend that it gets approved. I agree with Lynn.

Mayor Pierce: Anyone else like to make any comments?

Council Member Shuttleworth: I think it's silly to ask someone to put a sidewalk 6 feet on each side of a driveway.

Mayor Pro Tem Healy: I agree 100 percent.

Council Member Shuttleworth: If we're gonna do it, just connect it to the existing sidewalk. There's no reason just to hopscotch through an area. That's just one.

Mayor Pro Tem Healy: Either that or no sidewalk at all.

Council Member Garza: Yeah, I wouldn't put that there.

Council Member Shuttleworth: I'm concerned about, I'm not sure how to do the conditions that the staff has laid out that we have to meet, the 1-4, when we talk about the buffer at the entrance, I think there's some design issues, and that's why I ask what are modifications because

the buffer of trees along both right-of-ways when you start putting gang boxes, it's just going to get tough, and I don't know how Ms. Fox tells me we do that. They have met 1, 2, and 3. It's questionable in some minds whether 4 is met. I just I think there's some struggle here um that is going to perpetuate unease on both sides. On the applicant side, not understanding how he's going to get some of these things done, and on the neighbors, not understanding what a definitive design looks like. I'm just struggling with that. I understand the sewer, we got that answer. The water, interesting. Stormwater, and so I don't know. And I agree. Mr. Marlow builds beautiful properties. The density, I struggle with the driveway issue. You don't have a stop sign on a driveway. I just, are we going to name it?

Mayor Pierce: And I share your concerns, Steve, and we depend on staff to give us that information because we certainly are not planners, so they're the experts in that area.

Council Member Garza: We have tough calls at the moment. We do, but unfortunately I understand both aspects. If there's something what I wanted to do and I met all that criteria and legally there are those moments when we still have to vote, and we have to be in favor for it is what I feel. The driveway thing the, I don't know much about the stormwater, but to some points I do agree with Steve and that would be one thing. However, according to our attorney, that's not something we're speaking about this moment. It's just the rest of the criteria, whether they meet things or not. Beyond that, I have no control over that, but at this moment.

Council Member Shuttleworth: How do you feel about the sidewalk?

Council Member Garza: I say take that out. I understand if we can, let's get sidewalks, but in that area I would say take that 4-foot sidewalk problem. Don't even use that as a criteria. But it has my vote.

Council Member Barbee: Yeah, on the sidewalk, Steve, I would be, I would say the same thing. I say get sidewalks every time you can. I do agree with Jeremy, but we're talking.

Mayor Pierce: When it makes sense.

Council Member Barbee: Something so small.

Council Member Shuttleworth: **Alright, so I'm going to help you guys out, even though I think the neighbors were expecting me not to and I think the applicant was expecting me not to, but I'm going to make a motion to approve. I'm looking and find that it meets the um four criteria. I'm looking for my number.**

Mayor Pierce: Seven specific standards, four general conditions.

Council Member Shuttleworth: It's the seven specific standards and that meets the four general conditions if developed according to the plan as submitted and approved, and I would move to remove the requirement for the 4-foot wide sidewalk on either side of the driveway.

Mayor Pierce: Land Use Plan? And it's consistent?

Council Member Shuttleworth: And it's consistent with the Land Use Plan. Thank you.

Mayor Pierce: OK, motion on the floor. All in favor?

Council: Aye.

Mayor Pierce: All opposed? **Motion passes 5 to 0.**

Council Member Barbee: For the record, I hate this.

Mayor Pierce: Hm?

Council Member Barbee: For the record, I hate this.

Mayor Pierce: You still like this job?

Council Member Barbee: Well, you got citizens doing the right, everybody's doing the right thing. It's just unfortunate situation.

Mayor Pierce: And Mr. Marlow, we hope that you would, well I know you're a great guy and you guys could build a wonderful product. We hope that you would work with these residents in harmony and good faith for the community. Thank you. Alright, so we're going to move along. Do we have any non-agenda items? Yes, ma'am. Oh, sorry. I didn't close, did I? Alright, I'm sorry. **I'll make a I'll make a motion that we close our evidentiary hearing. All in favor?**

Council: Aye (motion passed unanimously).

ITEMS OF BUSINESS

None

NON-AGENDA ITEMS

Ms. Fox said the Town had been contacted by the owners of 1814 Carolina Beach Avenue North regarding a piece of land they inherited through their parents' estate that they would like to donate to the Town. This is an empty piece of land that is underwater. Council Member Shuttleworth said maps show the land is 100 percent submerged. Ms. Fox said it is really owned by the State of North Carolina and will likely continue to be because that area is systematically renourished by public funds. However, the State has not declared itself the owner and therefore the family is being taxed yearly on the property, which shows a tax value of \$200. Mayor Pierce asked if there was any liability if the Town accepted the offer. Ms. Fox said no because the Town already owns the parcel next to it. Mr. Oakley said he did not see any reason for the Town to decline the offer. Council came to a consensus to move ahead with accepting the land donation.

Council Member Garza said he would like to see a bigger police presence on foot in the Boardwalk area. He said he recently spent three hours on the Boardwalk but did not see any officers during that time. He said having a more regular presence of officers would encourage

people to social distance and follow rules. Mayor Pro Tem Healy said he thinks the Police Department is doing a great job with citations but encourages them to look into concentrating more on the Boardwalk area.

Council Member Garza asked whether the Pleasure Island Chamber of Commerce had any ideas for entertainment as the peak season winds down. Mayor Pierce said she would like to invite the organization to Council's next workshop to hear ideas.

Council Member Garza said he had heard from a resident about an idea used in California municipalities that grandfathered in longtime fixed-income residents at affordable tax values. He said he would like Ms. Fox to look into the possibility of doing this here.

Council Member Garza also encouraged staff to be on the lookout for blind spots at cross streets and fix those when discovered.

Mayor Pro Tem Healy said he would like to get Council's approval for a 16-by-8 wooden sign that resembles a postcard to go over the bridge on the right as people enter the Town. He said this will be done by the Carolina Beach Mural Project and is completely paid for by donations. It will also be maintained by the project. The images on the postcard would reflect demographics of today. Mr. Oakley said the N.C. Department of Transportation would most likely allow the sign to be placed in the right-of-way. Mayor Pierce said the DOT would not grant this permission if the sign incorporated anything controversial. Council Member Garza suggested delaying a vote until Council could see the final product. Mayor Pierce said it would be nice to see at least a couple of different options for the sign. Council Member Shuttleworth said conceptually he's OK with the size and location of the sign but also wants to see what it will look like before voting. Mayor Pro Tem Healy said he would work with the artist and come back to Council. Council Member Garza said he wants to ensure the project fully understands the maintenance needs of this endeavor and suggested getting a proposed plan.

Mayor Pro Tem Healy brought up striping on Canal Drive again and said it's still an issue. Mr. Oakley said some of this project has been started.

Mayor Pro Tem Healy said the Town's Census participation is at 36.7 percent. He said each resident counted equates to \$16,000 in federal funding, so he reiterated the importance of the count. He said a Census official is now knocking on doors to count those who have not participated, so he is hopeful that number will improve soon.

Council Member Barbee said he wanted to support what Council Member Garza said about the Boardwalk. He said due to the lack of events this year as well as COVID-19 itself, fewer families are going there and he senses that the vibe is changing. He said the Town worked hard to make the area family-friendly and would like to see more diligence from the Police Department.

ADJOURNMENT

Mayor Pierce made a motion to adjourn at 9:45 PM. Motion passed unanimously.