

# CAROLINA BEACH

Planning and Zoning Commission Meeting

Thursday, December 9, 2021 - 6:30 PM

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



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## MINUTES

### CALL TO ORDER

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

### PRESENT

Chairman Deb LeCompte

Vice Chairman Wayne Rouse

Commissioner Jeff Hogan

Commissioner Melanie Boswell

Commissioner Ethan Crouch

Commissioner Todd Piper

Commissioner Bill Carew

### ALSO PRESENT

Planning Director Jeremy Hardison

Senior Planner Gloria Abbotts

### APPROVAL OF MINUTES

1. November 10, 2021 – Planning and Zoning Minutes

**ACTION:** Motion to approve the minutes as written

Motion made by Vice Chairman Rouse, Seconded by Commissioner Hogan

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

*Motion passed unanimously*

### STAFF REPORT ON RECENT DEVELOPMENTS

Ms. Abbotts reported the following statistics for the past month:

#### Permitting

- 31 permits (renovation, repair, grading, additions, fence)
- 13 residential new construction
- 13 Certificates of Occupancy

#### Code Enforcement

- 4 complaints received
- 4 resolved

### Town Council and Other Updates

- The Vault – approved
- Parking – approved

### Demos in Progress

- 1314 Snapper Lane
- 1211 Carolina Beach Avenue North

### New Businesses

- W3 Built (contractor's office) – 707 Saint Joseph Street, Suite A
- Wavelength Wellness (personal training and group fitness) – 716 North Lake Park Boulevard, Suite 5

### Coming Up

- SunFun Rentals – redevelopment of 1301 Bridge Barrier Road
- Text amendment – increase density, add multi-family, and non-contiguous parking areas in the Neighborhood Business District

### **PUBLIC DISCUSSION**

**ACTION:** Motion to open public discussion

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

No one requested to speak.

**ACTION:** Motion to close public discussion

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

### **DISCUSSION ITEMS**

2. **Conditional Zoning** to consider a multi-family project consisting of 9 townhome units located at 406, 408, and 410 Canal Drive in the Tourist (T-1) zoning district  
Applicant: Tank Construction Supplies LLC

Senior Planner Gloria Abbotts presented the details.

406, 408, 410 Canal Drive

- Current use: vacant
- Tourist district

- Complementary to Central Business District (CBD)
- Moderate- to high-density residential
- Multi-family dwellings greater than 4 units (Conditional Zoning, or CZ)
  - Allowed in accordance with specific standards and conditions pertaining to an individual development project
  - Standards may include landscaping, design guidelines, and infrastructure, pedestrian, street, and right-of-way improvements

#### Surrounding Uses

- Single-family
- Planned Unit Development (PUD) behind it approved recently for 6 units

#### Former Approvals

- 2006 – one structure with 11 units (not built; lot is currently vacant)

#### CZ

- Subject to specific conditions that ensure compatibility and enjoyment of neighboring properties
- Standards may include such things as landscaping, design guidelines, buffers, infrastructure improvements (i.e., water), and pedestrian, street, and right-of-way improvements
- Allows a particular use to be established only in accordance with specific standards and conditions pertaining to an individual development project

#### Site Plan

- 9 units
- Providing 3 parking spaces per unit

#### Plans

- Each unit will have about 3 bedrooms

#### CZ Process

- Public meeting Friday, October 29
- 3 people attended
- Concerns – stormwater
  - Applicant plans to install underground stormwater systems and plans to keep runoff to a minimum

#### Conditions (proposed by staff)

- Utilities must be installed in accordance with Town requirements
- All relevant requirements of the fire code must be met
- Recombination plat required before building permit can be issued

#### Criteria

- When evaluating, the Commission shall consider the following:
  - Application's consistency to the general policies and objectives of the Town's Coastal

- Area Management Act (CAMA) Land Use Plan, any other officially adopted plan that is applicable, and the zoning ordinance
  - Potential impacts and/or benefits on the surrounding area and adjoining properties
  - Report of results from the public input meeting
- The Commission may include additional standards such as landscaping, design guidelines, buffers, infrastructure improvements (i.e., water), and pedestrian, street, and right-of-way improvements

#### Land Use Plan

- The project is in general conformity with the 2020 Land Use Plan; it supports higher density residential/light commercial in this area.

Commissioner Crouch asked what staff's recommendation is. Ms. Abbotts said staff recommends approval.

Mark Loudermilk, architect for the project, said comments from the Technical Review Committee (TRC) indicated roofs at the top of the structure would be considered another story and wouldn't be allowed, so the project has changed those into a trellis to provide shade. He said plans call for screening of the parking area on the Canal Drive side so people don't just see bumpers and headlights, an aesthetic improvement.

Vice Chairman Rouse asked if the architectural firm was involved in the stormwater design. Mr. Loudermilk said Scott Baggie is the civil engineer and is designing that right now. He said it will all be stored underground on site, so it will be self-contained.

**ACTION:** Motion to open the public hearing

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

Gary Bianchi of 409 Canal Drive asked if the project is going to allow short-term rentals. He said if so, cars may flow out onto the road, making it more difficult for neighbors to get by. Mr. Bianchi said there is a spot in the road that needs to be fixed, and he would like to see that remedied permanently rather than a temporary fill if there is going to be extra traffic coming.

Applicant Adam Shanks of 1113 Tidal Walk Drive in Wilmington said they are currently planning to sell units with the flexibility to do short-term rentals. He said this was part of the reason for going to 3 parking spots for each unit. Mr. Shanks said some but not all units may be used as short-term rentals, and that's been addressed in the best way possible.

**ACTION:** Motion to close the public hearing

Motion made by Chairman LeCompte

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

Commissioner Crouch, Commissioner Piper, Commissioner Carew  
*Motion passed unanimously*

Commissioner Crouch said the architect has done a good job of creating an aesthetically beautiful building. He said he is concerned about possible density issues caused by 9 units on a road already experiencing a lot of traffic and congestion, especially if short-term renters are coming in and out on a regular basis. Commissioner Crouch said he likes how the traffic flow patterns work with entrances in and out and called this a good benefit. He also said he likes the overall design but has a general concern about the level of density these units will bring to the area.

Commissioner Boswell said it's a beautiful building, but she has concerns with density as well.

Vice Chairman Rouse said the applicant could ask for 11 units and still be well within conforming to the district, which is a transition from CBD to residential. He asked if they are meeting or exceeding parking requirements. Planning Director Jeremy Hardison said 3 spaces are required, so they are meeting this. Vice Chairman Rouse said he applauds the project and thanked the applicant for thinking about runoff. Mr. Hardison said this is a condition the applicant is willing to impose, even though it is not required.

Commissioner Piper asked how much stormwater the project anticipates treating. He said the condition must have a metric.

**ACTION:** Motion to reopen public discussion

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

Mr. Baggie said you take the impervious at rooftops, calculate the capacity below the ground, and carry that on a 24-hour intense storm, which is 1.5 inches per hour, quite a bit of capacity. He said you take the roof drains and run them to the back of the property to collect all subsurface capacity in the back for the rear building. Mr. Baggie said they are still figuring out details for the front building. He said the fill area will help with the holding capacity of the stormwater system above the groundwater table.

**ACTION:** Motion to close the public hearing

Motion made by Chairman LeCompte, Seconded by Vice Chairman Rouse

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

*Motion passed unanimously*

Commissioner Carew asked for clarification about the project. Mr. Hardison said the project could be 9 lots if the applicant wanted to not come through the CZ process and keep the lots separate.

Commissioner Carew asked if there is anything about the way the two buildings are configured or set

on the property that would give concern. Mr. Hardison said it could be a poor design for access and parking.

Commissioner Hogan said most of his concerns were addressed. He said he thinks it's a great design that will fit in. Commissioner Hogan said it's zoned correctly, and he's glad they took stormwater into their own hands because that's important.

Chairman LeCompte said her main questions were about density and stormwater, but she thinks those have been addressed.

Commissioner Boswell asked about wording to include stormwater in the motion. Commissioner Crouch said the Commission should make the option to control it on site a condition of approval of this project. Mr. Hardison said they can reference the Town code in the motion.

Commissioner Crouch said he wanted to run the conditions by the applicant to ensure the applicant is amenable before voting.

Mr. Baggie said they are not proposing to mitigate all the runoff on site. He said there will be driveway residual runoff into the road, so they are proposing to take the impervious roof, associated impervious surfaces around the building, and as much of the driveway as they can to get into their system. Mr. Baggie said there will be runoff from the driveway into the road, and they will mitigate 65 to 70 percent of it, meet Town codes, and maintain all major runoff areas into the site.

Vice Chairman Rouse the applicant is proposing a lot more than what is required.

Mr. Baggie said they are taking a proactive approach so they don't later affect properties as they are developed.

Commissioner Crouch said this is a little bit of a different story than they just heard previously.

Mr. Shanks said it's impossible to store 100 percent of water runoff. He said they will meet the code and through their engineer make this the best case possible. Mr. Shanks said they initially looked at a higher unit count but felt resistance and therefore met what it would be if developed individually. He said the biggest concern in the public meeting was runoff, and what they are proposing will make a huge difference in the amount of runoff they have. Mr. Shanks said in most rain events, they are going to collect nearly all of the rainwater.

Commissioner Hogan said he is happy with what has been said.

**ACTION:** Motion that whereas in accordance with the provision of the North Carolina General Statute, the Commission does hereby find and determine that the adoption of the Conditional Use District to allow for a multi-family project consisting of 9 townhome units located at 406, 408, and 410 Canal

Drive is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans with the condition of:

- Utilities must be installed in accordance with Town requirements
- All relevant requirements of the fire code must be met
- Recombination plat required before the building permit can be issued
- A self-retaining stormwater system be installed conforming to the Town ordinances or codes

Motion made by Vice Chairman Rouse, Seconded by Commissioner Hogan

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

*Motion passed unanimously*

- 3. Conditional Zoning** to consider a multi-family project consisting of 8 townhome units located at 905 Basin Road in the Marina Business (MB-1) zoning district  
Applicant: Laurel Companies LLC

Ms. Abbotts presented the details.

905 Basin Road

Current use: 7 mobile homes

- Marina Business District
  - Established to reserve area along the water's edge for water-dependent and water-oriented uses
  - Provides for residential and other non-water-dependent uses
- Multi-family dwellings greater than 4 units (CZ)
  - Allowed in accordance with specific standards and conditions pertaining to an individual development project
  - Standards may include landscaping, design guidelines, and infrastructure, pedestrian, street, and right-of-way improvements

Surrounding Uses

- Tom's Marine
- Federal Point Yacht Club neighborhood

CZ

- Subject to specific conditions that ensure compatibility and enjoyment of neighboring properties
- Standards may include such things as landscaping, design guidelines, buffers, infrastructure improvements (i.e., water), and pedestrian, street, and right-of-way improvements
- Allows a particular use to be established only in accordance with specific standards and conditions pertaining to an individual development project

Site Plan

- 8 units (2 fronting Saint Joseph Street and others on Basin Road)
- 24 parking spaces (3 per unit)

- Each unit has 3 to 4 bedrooms

#### CZ Process

- Public meeting Friday, October 22
- 8 people attended
- Concerns – stormwater issues on Basin Road
  - Town is planning upgrades; currently in engineering stage

#### Conditions (proposed by staff)

- Utilities must be installed in accordance with Town requirements
- All relevant requirements of the fire code must be met (i.e., installation of fire hydrants and sprinklers)

#### Criteria

- When evaluating, the Commission shall consider the following:
  - Application’s consistency to the general policies and objectives of the Town’s CAMA Land Use Plan, any other officially adopted plan that is applicable, and the zoning ordinance
  - Potential impacts and/or benefits on the surrounding area and adjoining properties
  - Report of results from the public input meeting
- The Commission may include additional standards such as landscaping, design guidelines, buffers, infrastructure improvements (i.e., water), and pedestrian, street, and right-of-way improvements

#### Land Use Plan

- The project is in general conformity with the 2020 Land Use Plan; this area supports mixed uses of commercial and residential.

Ms. Abbotts said staff recommends approval of the project.

Ned Barnes of 814 Carolina Beach Avenue North, the attorney representing the applicant, said there should be no impact to the immediate area because the property is going from a residential use to another residential use. He said owners of property in the surrounding area are in support of the project.

**ACTION:** Motion to open the public hearing

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

No one requested to speak.

**ACTION:** Motion to close the public hearing



Motion made by Chairman LeCompte

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

*Motion passed unanimously*

Commissioner Piper asked about the time frame for completion of stormwater upgrades. Ms. Abbotts said they are in the beginning stages, but there is funding. Mr. Hardison said this falls under the American Rescue Plan, and the Stormwater Department is working with property owners in that area to secure what is needed to make those infrastructure improvements. Commissioner Piper said he has concerns about a situation in which the buildings finish before the upgrades and the impacts that would occur until the Town completes stormwater.

Commissioner Carew asked where the water gets retained. Mr. Hardison said right now the problem is that it's collecting in the street and has nowhere to go.

Mr. Barnes said drainage was addressed during the TRC process and his understanding is that the applicant agreed to comply with anything the Public Utilities Department suggested for stormwater. He said they are willing to work together.

**ACTION:** Motion to open public discussion

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

Richard Lee, whose family owns 905 and 913 Basin Road, said the stormwater issue is his only concern. He said the Town has said it was going to do things for years but hasn't. Mr. Lee said the whole area is prime for what the applicant is trying to do and he thinks it's a good idea, but he asked Commissioners to think about stormwater issues from a larger perspective of what the area could be if they take the time now to get it right.

Kim Stiff of 103 Hopetown Road, who is on the Federal Point Yacht Club board, said her home is against the entrance to where this will be. She said she is very in favor of this, but stormwater is a big concern. She said since Publix was finished there has been increased water pooling. Ms. Stiff also asked the Commission to consider putting lines on Yacht Road coming into Basin Road because she has had 2 close calls where people are driving down the middle of the street, so this is a safety concern.

**ACTION:** Motion to close the public hearing

Motion made by Chairman LeCompte, Seconded by Vice Chairman Rouse

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

*Motion passed unanimously*

Chairman LeCompte asked if Basin Road is a Town road. Mr. Hardison said Basin Road is a public right-of-way. Chairman LeCompte said this needs to be addressed when the Town addresses stormwater in the area.

Vice Chairman Rouse said he believes there will be some urgency with this issue because of the amount of development coming to this area, including The Proximity, which has 261 apartments and 55,000 square feet of retail space.

Commissioner Boswell said the Commission should consider a condition with maintaining stormwater as well as a condition with sidewalks. Mr. Hardison said both projects are funded.

Commissioner Carew asked if stormwater must be detained for sanitation purposes before it's discharged into the basin. Mr. Hardison said yes, that will be engineered and part of the design, but the project is not in the design stages yet.

Vice Chairman Rouse asked if there is a time frame for the multi-use path on Saint Joseph Street. Mr. Hardison said there are still several steps in the process, including public hearings, final approval on design by Council, and going to bid. He said the start of construction would likely be after summer 2022.

Commissioner Crouch said because of approval of the previous item on tonight's agenda with the condition that the applicant make significant efforts to control stormwater, he thinks it would be disingenuous to not require the same condition on this project. He said he thinks the project will beautify the neighborhood but will also add impervious surface that will increase ponding and flooding issues in that area. Commissioner Crouch said anything that can be done to try to mitigate that would be welcome.

Mason Manhertz of 405 South 16<sup>th</sup> Street in Wilmington, the project engineer, said they can commit to capturing as much runoff as possible or feasible on site. He said they were already planning to do this, but at this point in the process it hadn't been presented on the site plan.

Commissioner Piper said they seem to be on the same page as everyone else. He said he likes the project and thinks it's going to look better than what's there. Commissioner Piper said all the neighbors are in favor of it but are concerned about stormwater, so the Town should try to do whatever is possible because it's the right thing to do.

Chairman LeCompte said a lot of the responsibility falls on the Town's Public Utilities Department as far as following up to make sure these projects are completed.

Commissioner Hogan said every project doing its own part makes a difference.

**ACTION:** Motion to approve whereas in accordance with the provisions of the North Carolina General

Statutes, the Commission does hereby find and determine that the adoption of the Conditional Use District to allow for a multi-family project consisting of 8 townhomes located at 905 Basin Road is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans and the potential impacts on the surrounding area are mitigated by the approved conditions:

- Utilities must be installed in accordance with Town requirements
- All relevant requirements of the fire code must be met (i.e., installation of fire hydrants and sprinklers)
- The project includes an on-site stormwater control system per State code

Motion made by Commissioner Crouch, Seconded by Commissioner Boswell

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

*Motion passed unanimously*

**4. Voluntary Annexation** to annex a 20,853-square-foot parcel located at 601 Augusta Avenue into the Town of Carolina Beach municipal boundaries.

Applicant: Center City Development

The applicant, Center City Development, is requesting a voluntary annexation of a 20,853-square-foot tract located at 601 Augusta Avenue (lots 5,6, 1, and portion of 2). The property is owned by one entity. This area of undeveloped land is situated between Carolina Sands neighborhood and developed lots on Augusta Avenue. The lot abuts the Military Ocean Terminal Sunny Point (MOTSU) buffer area to the west. The lot is on the corner of 6th Street and Augusta Avenue. Augusta Avenue terminates 285 feet west to the MOTSU buffer area. MOTSU acquired the adjacent property in the early 50s. When the Town annexed the area where Carolina Sands is, this property was not included, as it was not part of the subdivision. The property is currently zoned Conservation. It is the only private land that is not incorporated on the island. The Town zoned all the property that was outside the Town limits Conservation; this includes the subject property, MOTSU land, and the State Park in this area. The property is in the Town's extraterritorial jurisdiction (ETJ). The Town has the authority to regulate how property is developed and zoned within a certain distance from Town limits. Any property owners can petition the Town to annex their property into the Town limits. There would not be any additional impact on services and resources to this property. Water and sewer are existing to the property. Through mutual aid, Police and Fire would respond to any emergency situation.

Mr. Hardison presented the details. He said the Town has not received an annexation request since Wilmington Beach in 2000.

Mr. Hardison reviewed the history of the property.

#### Timeline

- Property platted in 1925, same year Town incorporated
- ETJ in 1971
- Only private lot that has not been annexed by petition in the area; adjacent lots were annexed

in 1980s

Annexation provides:

- Police and Fire protection
- Water and sewer lines
- Solid waste collection
- Street maintenance

Mr. Hardison said not much will be required from the Town because it is already providing most of these services.

Commissioner Hogan asked what staff's recommendation is.

Mr. Hardison said staff agrees that this should've been annexed a while back and doesn't see any reason why it would not be annexed into Town limits because it's in the center of Town next to the buffer zone. He said it makes sense that this property would be part of the Town as private property.

Commissioner Carew asked for some clarification about surrounding zoning districts.

Commissioner Piper asked if the property has ever paid Town taxes. Mr. Hardison said no. Commissioner Piper asked why Conservation land would need water and sewer, trash service, and street maintenance. Mr. Hardison said the term Conservation by Town zoning does not mean land is undevelopable. He said it can still be developed under certain requirements. Commissioner Piper asked what could be built there if it was annexed. Mr. Hardison said single-family homes or Town trails, paths, and greenways.

Commissioner Carew asked why this property was designated Conservation. Mr. Hardison said during the process of adopting the 1997 Land use Plan, the term Conservation came about. He said discussions showed that the Town wanted to create a district for low-impact development, if it would ever occur. Mr. Hardison said the 1997 Land Use Plan had this property as residential, and in 2000 the Town undertook a new zoning ordinance and map and created different designations, so at that time the Town zoned all areas outside of Town limits to the west as Conservation.

Commissioner Carew asked if the property was zoned residential when it was purchased in 1960 and would've formed the assumption for how the land could be used. Mr. Hardison said yes.

Susan Keelin of 1315 Johns Creek Road in Wilmington, the attorney representing the applicant, said she wanted to clarify some details about the 0.47 acres of property. She said it seems strange that this little area is the only property zoned Conservation when all of the other lots surrounding it are residential. Ms. Keelin said the property passed through family members since its previous purchase, but the assumption is that an annexation request was never made because the owners did not live in this area and didn't participate in the annexation request that brought all of the other properties into

the Town in the 80s. She said annexation makes sense and would complete the picture that has been anticipated by the Town over the years. Ms. Keelin said there are no new services required and no disadvantages to anyone, and the benefit is the Town gets taxes once it's annexed. She asked the Commission to recommend approval of the annexation.

**ACTION:** Motion to open the public hearing

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

Sandy Cecelski of 941 Carolina Sands Drive said she has lived in her home adjacent to this property for 25 years and been a resident of the Town for 35 years. She said her family purchased the property because of the Conservation zoning that occurred in 2000 and made life-changing decisions based on this. Ms. Cecelski said the proposed actions do not align with the Town's 2020 Land Use Plan in the following ways: retain traditional character and density of single-family neighborhoods; preserve natural beauty through protection of unique habitats, wetlands and mature trees; and reduce and mitigate negative effects of stormwater and flooding. She said she is asking the Commission to table or deny the annexation request at this time to give all stakeholders an opportunity to explore better options for this unique and beautiful property. Ms. Cecelski said the property is adjacent to the Greenway, which has no handicap access or parking, and with State or Federal funds could become a gateway park with enough time to explore this option.

Kim Nethercutt of 604 Augusta Avenue said she wants to know where the tap for the water is on this property. She said there is no tap on that side of the street and no water and sewer. Ms. Nethercutt said she bought her house in 1990 because of the dead-end street and Conservation designation of the nearby property. She said the family members who originally purchased the property were very involved with it and wanted to keep it as Conservation land. Ms. Nethercutt said neighbors should have a say in what goes on there. She said she is begging the Commission to leave the land as it is because it's been like that for 60 years and shouldn't change now. She said if it's rezoned, traffic will be a nightmare.

Danielle Kurtz of 918 Riptide Lane said she is concerned about the annexation. She said there are benefits of keeping the land as Conservation, including financial benefits at the State, Local, and Federal levels that the family reaped over the years. Ms. Kurtz asked about back taxes if the property is annexed and questioned why the Town would want to annex the property.

Richard Cecelski of 941 Carolina Sands Drive asked the Commission to table or deny the annexation request. He said there is a lot of unknown information about this complicated issue, and once it's part of the Town then the Town will be tasked with how it's going to be zoned, which will be a contentious issue. Mr. Cecelski said he wants to maintain the traditional character of this Town.

Mikaela Curry of 613 Carolina Beach Avenue South said until 2 months ago she lived at 1007 South 5th

Street, 2 blocks away from the property. She said there is a feel in that neighborhood that you live in the country, and this is the heart of what makes the Town feel different from other places. Ms. Curry said if the Commission denies annexation, we can respect this last homage to a time in the Town's history when things were a little different. She said this would do honor to the people who kept this property undeveloped for 60 years.

Leni Knowles of 602 Augusta Avenue said she lives across the street from the property and bought her house 20 years ago because it's on a one-way private street with a few neighbors, making it safe for pets and kids. She said it's a little piece of privacy and serenity. Ms. Knowles also said the area has had no issues with flooding or drainage and has always survived the worst storms with no issues because the property soaks up the water. She said for the ecosystem it's important to maintain undeveloped areas of woodlands to protect communities as best as possible. Ms. Knowles said the tree line provides windbreak and shade and gives a harmonious feel to the neighborhood. She said it's beautiful and would be a shame to lose it, so she is asking the Commission to deny annexation so they can maintain a beautiful neighborhood.

Ms. Keelin said the water tap for the property is on 6th Street, not Augusta Avenue. She said she doubts there is a precedent for the property to pay back taxes to the Town, but the benefit is Town taxes may start to accumulate with annexation.

Mr. Hardison said there is not a requirement to have back taxes because the Town was not providing any services.

Ms. Keelin said the property is zoned Conservation and does not actually have an easement or any deed restrictions that would prohibit development there. She said for the annexation request, by statute the only party that has a standing to be heard is the applicant. Ms. Keelin said public hearing comments would come into play with the rezoning request.

**ACTION:** Motion to close public discussion

Motion made by Chairman LeCompte, Seconded by Vice Chairman Rouse

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

*Motion passed unanimously*

Vice Chairman Rouse said the Town put the Conservation label on the property, and the original owner didn't make this request and may have never known. He said he doesn't know if the original owner had the intent for this property to be Conservation forever but that he was a savvy businessman who would likely have put a deed restriction on the property if that was his vision.

Commissioner Crouch said the Commission needs to consider annexation under the current zoning of Conservation. He said a property zoned Conservation doesn't need Town services, and if it's annexed this could open up a can of worms. Commissioner Crouch said what the Town does now could result in future obligations. He said it makes sense to not annex the property.

Commissioner Carew said he has empathy for those living next to the property who made an assumption that it would never be built on in the future, but he believes in property owner rights and thinks the previous purchaser bought the property under the assumption that the land would eventually be buildable.

Commissioner Crouch said the current applicant is not the original property owner and bought the property under the Conservation designation, so that's a very important distinction.

Commissioner Hogan said the land is not being taxed by the County as Conservation land. He said \$365,000 would not be the tax value of true Conservation land.

Commissioner Boswell said Commissioners can't speak for someone make assumptions about intent. She said the tax value that the land would bring to the Town is not enough to convince her to open up issues for other Conservation land.

Commissioner Hogan asked if there is any other privately owned Conservation land that could possibly be annexed into the Town right now. Chairman LeCompte mentioned property on Dow Road. Mr. Hardison said the petition is an annexation request as to whether the property should be in the Town limits, so the Commission should focus on that. He said the zoning classification still exists whether or not the land is in the Town.

Vice Chairman Rouse said they are only talking about annexation of this particular parcel. He said the Town is hopeful in the future that it may be able to receive MOTSU land if the buffer zone is reduced or eliminated, so he is concerned that not annexing this will prevent the Town from annexing similar property in the future.

Commissioner Boswell said this would not close the Town to future annexation requests.

Vice Chairman Rouse said he believes this would potentially set a precedent.

Commissioner Piper said the Town must be consistent with everything. He said there are property rights, and someone bought the land to develop at some point. Commissioner Piper asked if the Town can annex something and require the current zoning to be kept. Mr. Hardison said annexation would not change the zoning; that is a separate request. Chairman LeCompte said if it's annexed, it is done so as Conservation. Mr. Hardison said nothing changes other than whether the Town gets a check for property taxes.

Chairman LeCompte said it's hard to know what the original owner had in mind when he bought the property in 1960. She said the current owner knew at the time of purchase that the property was Conservation land not in the Town's jurisdiction.

Commissioner Crouch said his concern is if the property is annexed, then it will be a hot potato.

Vice Chairman Rouse said the Town shouldn't avoid annexation due to fear of what could happen next.

Commissioner Crouch said there are other options that could arise besides the current zoning request.

**ACTION:** Motion that the Commission deny recommending approval with the proposed adoption of the annexation of 601 Augusta Avenue

Motion made by Commissioner Boswell, Seconded by Commissioner Crouch

Voting Yea: Chairman LeCompte, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

Voting Nay: Vice Chairman Rouse, Commissioner Hogan, Commissioner Carew

*Motion passed 4-3*

**5. Map Amendment to** rezone 601 Augusta Avenue from Conservation (C) to Residential (R-1) zoning district

Applicant: Town of Carolina Beach

There was discussion about whether this item should move forward after the Commission voted to recommend denying approval of the annexation request. Ms. Keelin said it's still possible for development to happen in a residentially zoned area with private utilities, so she wanted to move forward to have a conversation and learn from the process. Mr. Hardison said the annexation and rezoning requests will go to Council next, so both items need a recommendation from the Commission.

The property at 601 August Avenue is located in the ETJ, so the Town has jurisdiction for all of its zoning and subdivision ordinances and housing and building codes. The size of the property is 20,853 square feet. This tract of land is the only private property that is zoned Conservation in this area. All other property is owned by the State or Federal government. The Town zoned all the areas Conservation that were outside of Town limits. There is no documentation or evidence of wetlands or environmental concerns with the property that may lend itself to be zoned Conservation.

The property is currently vacant. The surrounding uses are mostly single-family developed, with a handful of duplexes in the Greenville Avenue and 5th Street areas.

Currently with the Conservation zoning, one unit can be developed on the property. If the property is rezoned from Conservation to R-1 or R-1B, then the property could be subdivided into 4 lots. These lots could be developed single-family only in R-1B and either single-family or two-family dwellings in R-1.

Mr. Hardison presented the details, including the history of the property. He said there are no indications as to why this would be zoned Conservation; he doesn't know of any environmental concerns, wetlands, Civil War mounds, or bird sanctuary. Mr. Hardison said in his mind, it was an oversight. He said ownership of the property went to the original owner's heirs in 1990, and he doesn't know how much they were involved.



Mr. Hardison said the 2020 Future Land Use Map and Character Areas document defines this as medium-density residential. He said the property owner may still build in the Conservation district but must meet certain requirements.

#### Timeline

- 1925: property platted
- 1971: ETJ
- 1971: zoned residential
- 1997 Land Use Plan: buffer area, State Park, and Freeman Park as Conservation
- 1997: plan designates this lot as residential (main residential area)
- 2000: Town adopted a new zoning map that designated the areas outside of the Town limits as Conservation (except I-1, Tucker property)
- 2021: petitioned to be annexed into the Town

Staff recommends this parcel to be rezoned; this would be consistent with the 2020 Land Use Plan. Mr. Hardison said it could be R-1 and allow single-family and two-family homes, R-1B for single-family only, or remain the same.

Vice Chairman Rouse asked what can be built there right now. Mr. Hardison said one single-family home could go there now, and private utilities would be an option without annexation.

Chairman LeCompte said that when serving on the Land Use Plan Committee, it was mentioned repeatedly that the Land Use Plan does not dictate zoning. Commissioner Crouch said this was also his understanding. Mr. Hardison said the map is a tool, and Commissioners should look at the Land Use Plan for the vision of the area, although they are not bound by what it says. Commissioner Crouch said Mr. Hardison is confusing the plan and the map. Mr. Hardison said the map is part of the plan.

Mr. Hardison said in his opinion, he feels it was not the intent of the Town to zone this land as Conservation.

Vice Chairman Rouse said it's a piece of the puzzle that just never got recognized for exactly what it was.

**ACTION:** Motion to open public discussion

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

Susan Keelin of 1315 Johns Creek Road in Wilmington, the attorney representing the applicant, said while the rezoning is the Town's application, it will benefit the developer. She said she thinks the request is for R-1, and the developer intends to build no more than to the R-1B standard, which allows single-family homes and no townhouses. Ms. Keelin said this rezoning request aligns with the Land Use

Plan that was adopted in 2020, and her client bought the property in accordance with this with the knowledge that it was intended for medium-density zoning for residential. She said this is what was adopted and this is what the owner is entitled to, and anything else would bring the purpose of a Land Use Plan into question. Ms. Keelin said people had the opportunity to voice concerns during the Land Use Plan process and did not, yet they are coming out now after money has been paid in reliance on the Land Use Plan. She said there are no restrictions that prohibit the owner to conduct business, and she reminded the Commission that he will have to go through the process of many other approvals for any development. Ms. Keelin said it baffles her to think the Town would spend the time, energy, resources, and money to put together a Land Use Plan and let people rely on it but then change part of the plan as if it was a mistake. She said this is not a practice the Commission should recommend, and she hopes Commissioners will see it from that perspective.

Leni Knowles of 602 Augusta Avenue said the developer bought this land knowing it was zoned Conservation, and there was no guarantee that it could be rezoned so it was a gamble. She said there are no benefits of rezoning for neighbors or the surrounding community and no neighborhood support, only substantial potential negative impacts. Ms. Knowles said there are over 760 signatures on a petition to save that lot as woodlands, and she offered to provide case law to the Commission. She said families bought their land thinking this was going to be the way this nearby property was going to stay.

Danielle Kurtz of 918 Riptide Lane said she agreed that the developer purchased this land knowing this was zoned Conservation. She said the lot is buildable at one home, so it should stay that way. Ms. Kurtz said it shouldn't be rezoned, and if it was rezoned as residential then each one of the lots would've gone for the total price the applicant paid.

Preston Smith of 511 Augusta Avenue asked what the benefit of rezoning would be to the Town. He said without annexation the Town will not get revenue, and development would drive more traffic. Mr. Smith said anything besides one home would add more volume to a road that would ultimately result in something that taxpayers would have to fund while getting no revenue in return.

William Baranoski of 945 Carolina Sands Drive said there are only 8 feet from the side of his house to the property line of the land being discussed. He said if it's subdivided into 4 parcels, all vegetation will be cleared and replaced with impermeable space, resulting in drainage issues on his property. Mr. Baranoski said this is not a harmless way to bring in more revenue, and he thinks he will be harmed if the rezoning to R-1 moves forward. He asked for more time for any decision on rezoning.

Richard Cecelski of 941 Carolina Sands Drive said he has lived at his address for almost 25 years and bought his property for its privacy. He said rezoning this land would impact his property value and quality of life. Mr. Cecelski said nobody challenged the Conservation status of the property during the 2020 Land Use Plan process, so neighbors saw no reason to voice opposition at that time. He said the natural environment is the key to the quality of life in the Town. Mr. Cecelski said there is a growing sentiment to preserve green space, and the less we have the more valuable it's becoming. He said he

and his neighbors made investments and major life decisions based on the current zoning, and to change the zoning of the tract after 20 years is an affront to the Land Use Plan.

Kim Nethercutt of 604 Augusta Avenue said there has never been flooding on her street. She said if the property is allowed to go to R-1, the builder told neighbors he would build 2 single-family homes and 2 duplexes, although Ms. Keelin is saying that's not true now. Ms. Nethercutt said if that happens, they would probably build up and there would be runoff. She said her main concerns are flooding and traffic that could result from adding 4 to 5 more families on Augusta Avenue. Ms. Nethercutt said the rights of the longtime homeowners have precedent over anybody who buys a plat of land zoned Conservation for many years. She said she is begging the Commission not to change the current zoning.

Mr. Smith said the County has a development ordinance on trees, so the statement that you can cut down any tree is not true.

Ms. Keelin said the developer changed plans after listening to neighbors and their concerns, so now the intention is purely single-family homes.

Mikaela Curry of 613 Carolina Beach Avenue South said she was concerned that the Town was putting forth the rezoning request and the private attorney for the applicant was not given a timer and spoke twice. She said she was not sure she understands the process. Chairman LeCompte said not having a timer was an oversight the first time Ms. Keelin spoke, but a timer was set the second time. She said the Town is bringing this item forward because it's a zoning issue. Ms. Curry said she thinks it's important to protect legacy trees, environmental features, and wetlands because they help with infrastructure issues that demand a lot of the Town's budget. She said it seems to her that rezoning Conservation land would be against the values of the Town because there's already not enough of it. Ms. Curry said she implores the Commission to not make any zoning changes.

**ACTION:** Motion to close the public hearing

Motion made by Chairman LeCompte

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

*Motion passed unanimously*

Vice Chairman Rouse said he appreciates living in a place where residents can have such passionate differences in a respectful manner.

Commissioner Carew asked if there is anything in the Land Use Plan that would make a buyer assume rezoning would be obligatory. Mr. Hardison said no, it's a guiding planning document that is not binding and has no definites. Commissioner Carew said while this is a sensitive situation, it deals with private property rights. He said this parcel got caught in an arbitrary decision, and it's regrettable that the original owner didn't try to have it reclassified.

Commissioner Boswell said the property was zoned Conservation for a reason and had that zoning

when it was purchased, so she's not comfortable with rezoning Conservation land.

Vice Chairman Rouse said he thinks Conservation is just a moniker or label and doesn't necessarily convey all of the pre-conceived ideas that some have. He said this is the only private piece of property like this, and this piece got forgotten. He said he agrees with Commissioner Carew about private property rights and pointed out that this tract of land is surrounded by houses that were in R-1.

Commissioner Crouch said one of the largest adjacent parcels on the western side of this property is zoned Conservation, so it's inaccurate to say all the other parcels around it are R-1 or R-1B. He said the lot is not within the Town limits and is zoned Conservation by the County as well. Commissioner Crouch said when making zoning decisions, it's important to consider the rights of the adjacent property owners and not devalue their parcels. He said he thinks it's clear that if this is upzoned, it's going to devalue adjacent properties. Commissioner Crouch said he feels this request is not consistent with the Town's Future Land Use Plan. He read from his review of Land Use Plan sections that he feels would not support the rezoning request.

#### Community Concerns and Aspirations

##### Environment

The natural environment is the key to the quality of life in Carolina Beach. Tree preservation and water quality are important. Access to environmental amenities and preservation of natural resources, including wetlands and dunes, are essential. (page 8)

#### Community Vision and Goals

##### Community Vision Statement

Establishing a clear vision statement for your community helps organize people around future actions and provides a touchstone when evaluating decisions and priorities.

Carolina Beach is recognized for balancing its past and unique coastal attributes and challenges with integrity and enterprise. We will remain an attractive and safe family-oriented community with a healthy ecosystem, quality recreational opportunities, and a vibrant business environment that will connect families, residents, and visitors now and into the future. (page 9)

##### Community Goals

Goal 2: Retain the traditional character and density of single-family neighborhoods.

Goal 5: Preserve natural beauty through the protection of unique habitats, water quality, wetlands, and mature trees.

Goal 7: Reduce and mitigate the negative effects of stormwater and flooding.

#### Environmentally Fragile Areas

##### Prime Wildlife Habitat and Natural Resources

The planning jurisdiction of Carolina Beach is flanked by substantial natural resource areas. The buffer zone for Military Ocean Terminal at Sunny Point (MOTSU) and Carolina Beach State Park comprise

roughly 765 acres. Although the prime forest areas are located in State and Federal land falling within the Town's planning jurisdiction, the Town has zoned these areas as Conservation to preserve and protect their character. Areas of high biodiversity and quality habitat for flora and fauna are generally found at the water and land interface and in undisturbed natural areas. A large portion of the planning jurisdiction of the Town contains areas of medium biodiversity or higher, including all coastal marshes and wetlands. Carolina Beach State Park and MOTSU contain an area of Exceptional class rating for Natural Heritage Natural Areas. This is an area of special biodiversity significance due to the presence of rare species, unique natural communities, important animal assemblages, or other ecological features. These areas are comprised of mainly maritime forests, which are "forests that have developed under the influence of salt spray and that are found on barrier islands or immediately adjacent to estuarine waters." The State Park also has a number of unique wetlands.

#### Future Land Use

The Future Land Use Map (FLUM) represents the community's vision for the future and will be one of the factors that guides future rezoning or permit issuance decisions by local decision makers. (page 42)

The FLUM does not rezone properties. (page 42)

As Town leaders and staff weigh each incremental land use decision, the specifics of the proposals will factor heavily. It's possible that a request is denied, even if it is consistent with the FLUM. (page 42)

#### Land Use Plan Management Topics

##### LU-1 Implement the Future Land Use Map and Character Areas

The FLUM represents the community's vision for guiding rezoning and land use decisions. It is also important to regularly review and update zoning districts and development regulations to help realize that community vision. In all cases, public involvement and restraint are advisable in rezoning (especially upzoning) any properties prior to any actual proposed development plan or other land use action. Community-, district-wide, or leapfrog rezonings are inadvisable. If any lot does not meet the standards of the FLUM, such lot should still be developable or rebuildable as a single commercial or residential unit per the allowable regulations of the current zoning district and by-right uses, and in accordance with other Town-adopted ordinances.

##### LC-9 Restrict Density

Only allow increased density and development (above existing standards) if it also maintains the quality of life and environment.

##### LC-13 Preserve Existing Mature Tree Cover

Continue to implement and support efforts to preserve existing tree cover and use indigenous landscape materials in new development and redevelopment. Efforts should also continue to preserve and protect maritime forests due to their vulnerability to disturbance and development and regional importance.

Commissioner Carew said he agrees that upzoning is a slippery slope. He asked if this was a downzoning when it was designated as Conservation.

Commissioner Crouch said County records and history should also be considered. He said the Town needs Conservation land, and the current applicant bought the land knowing the current zoning. Commissioner Crouch said the Commission should be sensitive to adjacent property owners' rights when it comes to upzoning.

Commissioner Hogan asked if the County considers this Conservation land. Mr. Hardison said when property is in the Town's ETJ, the Town has control of the property from a development standpoint and zoning authority and the County gives up its right for development standards.

Commissioner Hogan said he has empathy for everybody who lives near the lot, but he's a proponent of property owner rights. He said the previous owner didn't ask for the land to be deemed Conservation, as far as anyone knows. Commissioner Hogan said the Commission must make decisions based on facts and not emotions.

Chairman LeCompte said it's a fact that the current owner bought a property that was zoned Conservation, and people have lived in that area for years knowing that land was Conservation. She said she believes in property rights, but that means you should build what your zoning says you can build.

Commissioners discussed what their options are. Mr. Hardison said they can vote to do nothing or vote to change the property to R-1 or R-1B. He said it's also fine to take no action at all because this is a staff-driven matter.

Commissioner Piper said he believes in property rights, but he is unsure about allowing the owner to use the land for something different than what the rules were at the time of purchase. He said changing the zoning is a tough pill to swallow because the buyer knew the terms of the property upfront.

Vice Chairman Rouse suggested changing the zoning to R-1B but imposing a height limit of 35 feet instead of 45 feet, but Chairman LeCompte said it is not permissible to spot-zone property.

**ACTION:** Motion to approve the Town's application for the rezoning of the 601 Augusta Avenue parcel with the condition that it be zoned R-1B

Motion made by Vice Chairman Rouse, Seconded by Commissioner Hogan

Voting Yea: Vice Chairman Rouse, Commissioner Hogan, Commissioner Carew

Voting Nay: Chairman LeCompte, Commissioner Boswell, Commissioner Crouch, Commissioner Piper

*Motion failed 3-4*

**ACTION:** Motion to preserve the current Conservation zoning for this parcel in consistency with our long-range plan

Motion made by Commissioner Crouch, Seconded by Commissioner Boswell  
Voting Yea: Chairman LeCompte, Commissioner Boswell, Commissioner Crouch, Commissioner Piper  
Voting Nay: Vice Chairman Rouse, Commissioner Hogan, Commissioner Carew  
*Motion passed 4-3*

#### **NON-AGENDA ITEMS**

Commissioner Piper asked what the Commission can do to start the ball rolling with trying to fix stormwater issues. Chairman LeCompte suggested showing up at Operations Advisory Committee meetings. Mr. Hardison said Council will discuss the issue at the Council budget workshop in January and may choose to direct staff to work on stormwater. He said he will report back to the Commission on the matter.

Commissioner Piper inquired about Vice Chairman Rouse's idea of meeting in the middle to allow 601 Augusta Avenue to be rezoned as R-1B with a height limit of 35 feet. Vice Chairman Rouse said the intent was to assuage fears of adjacent property owners that large structures would be built nearby. Commissioner Crouch asked that the debate not be reopened at this time.

#### **ADJOURNMENT**

**ACTION:** Motion to adjourn

Motion made by Chairman LeCompte, Seconded by Vice Chairman Rouse  
Voting Yea: Chairman LeCompte, Vice Chairman Rouse, Commissioner Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew  
*Motion passed unanimously*

The meeting adjourned at 10:30 PM.