

# CAROLINA BEACH

Planning and Zoning Meeting

Thursday, October 14, 2021 – 6:30 PM

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



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## AGENDA

### CALL TO ORDER

### APPROVAL OF MINUTES

1.

September 9th, 2021 – P&Z Minutes

### STAFF REPORT ON RECENT COUNCIL MEETINGS

### STAFF REPORT ON RECENT DEVELOPMENTS

### PUBLIC DISCUSSION

### DISCUSSION ITEMS

2.

**Conditional Zoning** to consider a mixed use commercial-residential located at 902, 1000, 1010 N. Lake Park Blvd.

Applicant: Cape Fear Four LLC

### NON-AGENDA ITEMS

### ADJOURNMENT



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Jeremy Hardison, Planning &  
Development Director

**DEPARTMENT:** Planning &  
Development

**MEETING:** Planning & Zoning Commission – 10/14/2021

**SUBJECT:** September 9th, 2021 – P&Z Minutes

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**Action:**

Approve the September 9th, 2021 Minutes

# CAROLINA BEACH

Planning and Zoning Commission

Thursday, September 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 Ethan Crouch

### ABSENT

Commissioner Melanie Boswell

Commissioner John Ittu

Commissioner Todd Piper

### ALSO PRESENT

Planning Director Jeremy Hardison

Planner Gloria Abbotts

### APPROVAL OF MINUTES

1. August 12, 2021 – P&Z Minutes

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

Motion made by Vice Chairman Rouse, Seconded by Commissioner Hogan

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

*Motion passed 4-0*

### STAFF REPORT ON RECENT DEVELOPMENTS

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

#### Permitting

- 24 permits (renovation, repair, grading, additions, fence)
- 11 residential new construction
- 5 certificates of occupancy

#### Code Enforcement

- 7 complaints received
- 6 resolved

### Demos in Progress

- 406 Birmingham Avenue
- 1419 Mackerel Lane
- 509 Raleigh Avenue
- 233 Florida Avenue
- 1616 Bowfin Lane (house moving)
- 1420 Pinfish Lane
- 319 Spartanburg Avenue
- 1417 Bonito Lane

### Complete Demos

- 219 Myrtle Avenue
- 506 Canal Drive

### New Business

- Paint2Party – 1401 North Lake Park Boulevard, #70

### Coming Up

- Special Use Permit (SUP) extension – September Council
- Minor Planned Unit Development (PUD) standards – September Council
- Text amendment: Mixed Use Commercial-Residential – September Council
- Variance: 511 Harper Avenue – September 20
- Variance: 206 Lake Drive – September 20
- Conditional Zoning: The Proximity – September Technical Review Committee (TRC)
- Conditional Zoning: 8 townhome units at 905 Basin Road – public meeting stage
- Conditional Zoning: Neighborhood Business Mixed Use project at 702 South Lake Park Boulevard, 106 Sumter Avenue, 701 South 2nd Street – public meeting stage September 22

## **PUBLIC DISCUSSION**

**ACTION:** Motion to open public discussion

Motion made by Chairman LeCompte, Seconded by Commissioner Hogan

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

*Motion passed 4-0*

No one requested to speak.

**ACTION:** Motion to close public discussion

Motion made by Chairman LeCompte, Seconded by Commissioner Hogan

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

*Motion passed 4-0*

## **DISCUSSION ITEMS**

2. Conditional Zoning to consider a pickleball court located at 209 Peninsula Drive in the R-2 zoning district. Applicant: Terry Wyckoff

Mr. Hardison presented the details.

#### Conditional Zoning (CZ) District

- Zoning district change
- Site plan
- Specific use
- Additional conditions that may be placed on the approval
- Community meeting is required

#### Conditional Zoning

- A CZ district allows a particular use to be established only in accordance with specific standards and conditions pertaining to an individual development project.
- Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined and controlled by general district standards.
- Specific conditions may be suggested by the owner or the Town, but only those conditions mutually acceptable to both the owner and the Town may be incorporated into the CZ.
- Any conditions or site-specific standards imposed are limited to those that address the conformance of the development and use of the site to:
  - Local/state/federal requirements
  - Officially adopted plans
  - Those that address the impacts reasonably expected to be generated from the development or use of the site

When evaluating an application, the Commission shall consider the following:

- The 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
- The potential impacts and/or benefits on the surrounding area and adjoining properties
- The report of results from the public input meeting and public comments

#### Why?

For vacant lots not occupied by a primary use (single-family structure), an approval requires it to go through the CZ district process.

#### Background

- March 12 – purchased by applicant
- March 25 – spoke with applicant about his intentions of installing a pickleball court
- March 29 – emailed the CZ process
- May 5 – received a phone call re: installing a court
- Followed up with a notice of violation letter

## 209 Peninsula Drive

- R-2 zoning district
- Purpose: single-family residential use and other compatible uses
- The intent is to discourage any use which, because of its character, would not be in harmony with the residential community and would be detrimental to the residential quality and value of the district
- The R-2 zoning district allows for private tennis courts with the approval of a CZ district
- Has an impact similar in nature, function, and/or duration similar to another use

Mr. Hardison reviewed a map of surrounding uses.

## Details

- Property: 75 feet by 148 feet
- Court: 60 feet by 30 feet
- Located: 42-foot front, 25 feet from east side, 16-foot west side, 45 feet from the water
- Proposed 6-foot fence around the court
- Three parking spaces are required to be delineated on the site
- An asphalt or concrete apron will be required from the edge of pavement to the property line
- The property is located in an area of environmental concern
- The State (CAMA) requires that no improvements can be located within 30 feet from the water
- The property is in an AE 10 flood zone
- The ordinance requires that provisions shall be made to compensate for impervious surfaces and drainage runoff containment
- No lighting is proposed

## Community Meeting

The applicant can place conditions on the project to help mitigate the impacts and concerns from the neighboring properties. The applicant is proposing the following conditions:

- Access to the court by keypad or similar device
- Posted hours of play to daylight hours
- Signage indicating the court is for private use of registered users of this community
- Provide bike racks and golf cart parking; would have to accommodate vehicles per code
- Court will not be open for play when there is an event at the community garden, which is adjacent
- Registered members only – eligible members are from Pleasure Cay/Harbour Point/Otter Creek area
- Provide a noise barrier around the court (phase two)

## Staff Considerations

- Provide a 5-foot landscape buffer around perimeter of the property
- No outdoor lighting shall be installed

### Code Requirements

- Must meet N.C. Building Code, CAMA, and flood regulations
  - Provide a bathroom and handicapped parking space
- Delineate a minimum of three 9-foot-by-18-foot parking spaces with a concrete or asphalt apron
- Must obtain proper permits to install the court, fencing, and other improvements on the site

### Future Land Use Map: Low-Density Residential

- The primary use is single-family residential, such as many of the Town's established neighborhoods
- Neighborhood amenity that is supported by a single-family neighborhood
- Support expansion of recreational opportunities

Chairman LeCompte opened public discussion.

Applicant Kelly Wyckoff of 204 Peninsula Drive addressed the Commission. (Details were inaudible due to technical difficulties.)

Billy Mack Strickland of 306 Peninsula Drive said the applicants stated at the community meeting that they didn't know the process for getting the pickleball court approved but that there are documents showing Mr. Hardison had given them information. Mr. Strickland said the applicants had no regard for permits and issues such as runoff. He said approving this would set a bad precedent for the single-family community or anywhere else in Town, and he cited concerns about traffic, especially due to the location in a cul-de-sac. Mr. Strickland said the Town should enforce guidelines and not let some people have special rights.

Michael Dennis of 210 Peninsula Drive said the applicants have constantly improved their property and turned a vacant lot into a beautiful space. He said this is not a commercial or public pickleball court but something for the neighborhood. Mr. Dennis said he urges the Town to use common sense and disregard all the conditions because he thinks they are not necessary for a private person. He said he is in favor of the pickleball court and wishes the Town would show compassion for people who have gone through a lot trying to create something good for the neighborhood.

Rick Both of 206 Peninsula Drive said while he and his wife are not pickleball players, they do not believe traffic or noise from the court will be a problem. He said most of the neighbors believe the improvements the applicants have made to this property have increased neighboring property values. Mr. Both said the applicants took a vacant, neglected lot and made it beautiful. He said he'd rather have a pickleball court there than a large house causing more traffic and congestion. Mr. Both said imposing conditions such as a bathroom and more asphalt for parking spaces would decrease neighboring property values and be the biggest mistake the Town could make. He said he strongly urges the Town to recommend approval of the pickleball court with no conditions on the lot because it's a good thing for the neighborhood and the Town.

Jason Mauldin of 116 Teakwood Drive distributed materials to the Commission. He said he previously knew nothing about pickleball but has done some research and found out that courts in residential areas are often associated with noise complaints and lawsuits. He said he went to a pickleball court in Wilmington and measured the noise level at 75 decibels, which is equivalent to being next to a busy highway. Mr. Mauldin said he specifically purchased a house in a single-family neighborhood so it would be quiet. He said he does not want to hear a pickleball court when waking up in the morning or in the evenings when trying to relax. Mr. Mauldin said experts say pickleball courts should not be built next to existing houses, but if they are there should be significant noise reduction measures. He said he wants to see noise addressed before approval because there would be no way to address it after approval. Mr. Mauldin said he is concerned about property values because there are many people who don't want to live next to a pickleball court. He said the court has already hosted a private party with a DJ that lasted for five hours, creating noise so loud he could hear it over the TV in his living room. Mr. Mauldin said it is a quiet neighborhood and should remain that way, and the court is unnecessary because the Town already provides these facilities.

Elmo Langley of 407 Tahiti Court said only people who live within 500 feet of the court knew about the community meeting instead of the neighborhood as a whole. He said the applicants had total disregard for zoning, permits, and homeowner association (HOA) covenants. Mr. Langley said if the Town approves this, then it could open up a can of worms for the rest of the R-2 zoning area. He said the applicants will pick and choose who plays there. Mr. Langley said there are codes he doesn't think the applicants can get around, such as parking and bathrooms, including handicapped accessibility. He said rules are rules, and people must obey them whether they like it or not.

Kristen Dunn of 905 Ocean Boulevard said dealing with the Town can be a difficult process, so she understands how the applicants feel with the rules changing and no one giving proper guidance. She said she has seen private basketball, volleyball, and pickleball courts at other homes and that noise was never an issue. Ms. Dunn said the community is about promoting a family lifestyle and being outdoors, and when the applicants started the process it was murky. She said the pickleball court will increase property values and is already being cited as an amenity in marketing materials about homes for sale in the neighborhood. Ms. Dunn said instead of working against residents, the Town should try to work with them a little better because otherwise residents may lawyer up from the start. She said there was good discussion and applicants listened to concerns at the community meeting, so she is for the pickleball court.

Kellie Dove of 114 Teakwood Drive said she built her home in the community in 2005 and likes to sit on the porch and use outdoor spaces while enjoying the quiet neighborhood. She said she is concerned about noise from the pickleball court.

Brennon Smith of 213 Teakwood Drive said there are 50 or more boat docks in the community with lots of accompanying noise, so the neighborhood is not really very quiet anyway. She said the pickleball court is an amenity that their generous neighbors are offering to fund for the community, costing the HOA nothing. Ms. Smith said she thinks it's a wonderful thing supported by the majority of neighbors.



She said she doesn't understand the need for three parking spaces when everyone is walking or biking, and those who have to use the bathroom can easily return to their homes. Ms. Smith said she is happy to see the addition of the pickleball court and thinks it improves property values. She said the court has brought the community together, and she wants to show agreement for it.

Christi Siegel of 217 Teakwood Drive said she is thrilled about the use of this space. She said she wishes it had come about a different way, but she doesn't think the Town should withdraw from this issue because of that. Ms. Siegel said it's a process that everyone can learn from together and that the court brings positivity to the community.

Kathie Heath of 211 Peninsula Drive said she has been nothing but thrilled with the idea, even though she doesn't play pickleball. She said people come on golf carts, ride bikes, or walk, and she doesn't think there will be issues with noise or traffic.

Alejo Cruz of 1542 Island Marina Drive said he is impressed with how the lot looks and praised the applicants for taking money out of their own pocket to do good for the neighborhood. He said he and his wife totally support the pickleball court.

Ashley Hunter of 221 Teakwood Drive said she is in support of the pickleball court and recommends against additional parking because that would promote driving there. She said she also does not support the addition of a bathroom because everyone in the neighborhood lives close enough to go home.

Ms. Wyckoff said there is already considerable traffic in the neighborhood due to delivery trucks and the nearby boat ramp, both of which have nothing to do with the pickleball court. She said they did exactly what was asked of them by inviting everyone within 500 feet to a community meeting, so there was no intent to withhold information or do something sinister or nefarious. Ms. Wyckoff said she is not sure codes and rules were specifically defined regarding this issue. She said it would be great if the Town had a liaison to come out to sites to assist residents with understanding the regulations for what they want to do. Ms. Wyckoff said they are not asking for special consideration, and she believes they have gone through the steps and been on track, so now it is necessary to find common ground to move forward. She said they are accessible and open to talking to neighbors about any concerns or ideas, and they are not drawing a hard line in the sand and refusing to tweak things. Ms. Wyckoff said regarding the mention of lawsuits, people can get on the Internet and find anything to support their opinions. She said the owner of another private pickleball court in the Town said noise isn't an issue. Ms. Wyckoff said many of the concerns are hypotheticals and that they are willing to address anything that happens down the line because they are reasonable people who want to foster a positive environment within the community. Ms. Wyckoff said she doesn't want to create animosity and thinks if they have to make concessions then some of the neighbors should also. She said the Town needs to foster the idea of creating cool spaces that promote beautification, camaraderie, and neighborhoods, and she will continue to try to promote things that bring the neighborhood together with or without the pickleball court. Ms. Wyckoff said she is asking Commissioners to send the message that they are

endorsing forward thinking.

No one else 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 Crouch  
*Motion passed 4-0*

Vice Chairman Rouse said while he is convinced the applicants have good intentions, the Commission should've heard about the pickleball court before it was built. He said it is not the Town's fault but is the responsibility of the applicant to understand the requirements of what they want to build, no matter what it takes. He said if this started happening all over the island, it would be a mess because there is a process that has to be followed.

Commissioner Hogan said he has a problem with the process going in reverse and that the reason for zoning and ordinances is to regulate what happens on a piece of property. He said if it's zoned a certain way and the owner wants to do something different, then they must go through the process and do the proper thing. Commissioner Hogan said he is also worried about setting a precedent of people building whatever they want and then asking for forgiveness.

Commissioner Crouch said while the issue arose due to unfortunate circumstances, he would like to move forward and evaluate the conditions under which this might be approved, although he does not want to set a precedent and believes it was the wrong way to do things.

Chairman LeCompte said the pickleball court would have to go through a CZ hearing regardless of whether things were done in the proper order, but she agrees that allowing forgiveness instead of permission could set a precedent for anyone to build whatever they want. She asked if the court would be an issue if it was behind the applicants' house. Mr. Hardison said it is an issue now because it's on a standalone lot where it is the primary use on that property. He said if it was on a property with a single-family home then the home would be the primary use and the court would be an accessory use.

Vice Chairman Rouse asked about the other pickleball court the applicant mentioned. Mr. Hardison said it's in the backyard of a residence in Seagrove.

Chairman LeCompte asked how the N.C. Building Code relates to requirements for a bathroom and parking spaces. Mr. Hardison said this comes into play because of how something is used and who is using it. He said neighborhoods with amenities such as pools and tennis courts have separate parking and bathrooms because once you offer these amenities to all neighbors, you have to provide these accommodations.

Commissioner Crouch asked about CAMA permits. Mr. Hardison said for any future improvements, such as a fence, the applicants would need a CAMA permit.

Vice Chairman Rouse asked what's next for the property if the pickleball court doesn't remain and what could go there if plans change. Mr. Hardison said if the court is approved, altering the use or failing to meet the conditions put in place would result in a CZ violation.

Vice Chairman Rouse asked about the parking and bathroom requirements. Mr. Hardison said because the use is on a standalone property, the use would have to support parking. He said the Building Code gets involved when more than one family is using the property, so accommodations must be made to provide bathrooms if it's being offered as a private neighborhood amenity.

Chairman LeCompte asked about stormwater requirements due to the impervious surface. Mr. Hardison said the Town asked the applicants to show a drainage plan, which they did on the site plan. He said if the court is approved, there would be a stormwater fee when applying for the permit. Mr. Hardison said they would need to ensure that the drainage leads away from the adjoining neighbors and out to the street.

Vice Chairman Rouse asked about ingress and egress for those with disabilities. Mr. Hardison said the handicapped space would have to be paved, and there would need to be a sidewalk leading from the space to the court.

Chairman LeCompte asked about the apron. Mr. Hardison said if the applicant is proposing gravel for the parking spaces, a concrete apron would be necessary as a protective buffer between the gravel and the street asphalt.

Commissioner Hogan questioned Ms. Wyckoff's contention that noise would not be a problem. He read from some of the information previously distributed, which cited that noise levels from a pickleball court could be 70 decibels about 100 feet away from the strike of the ball. Ms. Wyckoff said she has done basic decibel readings of hitting the ball on the court, and those ranged between 50 and 75 decibels, with most being in the 50-60 range. She said the decibel readings would likely be much lower from a neighbor's house.

Commissioner Hogan said he would not have a problem with a court in use for an hour a day by one family, but he said opening it up to the neighborhood could result in people playing 12 hours per day. Ms. Wyckoff said ultimately the court is their private property, so they can change the code or otherwise restrict use if necessary. She said she is not offering use of the court to everybody in all three of the surrounding neighborhoods.

Commissioner Hogan said much of the applicant's assertions, such as the hours of the court and whether people will drive, are speculative. Ms. Wyckoff said she realizes there is a lot of speculation but added that it was frustrating because they thought they were checking the boxes. She said this is an opportunity for better communication and using words that everyone will equally understand. Commissioner Hogan said he understands the frustration but added that the job of Mr. Hardison and

his staff is to lead the applicant to the right answer. Commissioner Hogan said there are codes, ordinances, and zoning for a reason. Ms. Wyckoff said it wasn't perfect or ideal how they got to this point, but she doesn't think it will set a precedent for residents to throw caution to the wind. She said she had no idea she would be fighting for a pickleball court, especially when neighbors are overwhelmingly in favor of it.

Vice Chairman Rouse said he thinks what the applicants have tried to do is honorable and they have the support of many neighbors, but he cannot disregard those neighbors who spoke against the pickleball court. He said these people have invested money to buy a home, not anticipating that the rules would be changed.

Commissioner Crouch said he would only consider approving the pickleball court based on conditions.

Commissioner Hogan said as much as he thinks the court is an awesome thing, the Commission must vote on things that meet the harmony of the neighborhood. He said the applicants did not go through the process correctly, and he doesn't think he can vote in favor of it.

Commissioner Crouch said only four of seven Commissioners are present tonight, which will make it hard for the applicant to gain support for the CZ request.

Chairman LeCompte said the request still has to go to Council and that the Commission is just a recommending board. She said she hates seeing neighbor against neighbor on any issues and suggested that the applicants sit down with the opposing neighbors to try to come to an agreeable conclusion about conditions for operation so there will be some kind of consensus when this request reaches Council. Chairman LeCompte said HOAs have covenants to protect everybody in that development. She said she's on the fence because the process went backwards, and those who don't understand the process should seek guidance so they do understand. Chairman LeCompte said the concept of asking for forgiveness and not permission was not the proper way to go. She said she thinks it's admirable for the applicants to do something for their neighbors and that they've done a beautiful job, but they should include all neighbors in the process, not just those within 500 feet, and try to understand their concerns.

Vice Chairman Rouse and Commissioner Hogan both said the applicants did a great job improving the property.

Vice Chairman Rouse said the Town received emails about the pickleball court from people not in attendance tonight, and some of those were opposed to it. He said he worries about people having to live with an amenity that was not present when they spent money on their homes. Vice Chairman Rouse said he also has concerns about the message saying yes to this will send because he could not with integrity say no to the next person.

**ACTION:** Motion to deny the applicant's request for Conditional Zoning based on the inconsistencies with the goals and objectives of the adopted Land Use Plan but more specifically other long-range

planning documents and the potential impacts on the surrounding areas and properties from the results of the public input meeting or public comments

Motion made by Vice Chairman Rouse, Seconded by Commissioner Hogan

Voting Yea: Vice Chairman Rouse, Commissioner Hogan

Voting Nay: Chairman LeCompte, Commissioner Crouch

*Motion failed 2-2*

3. Consider amending Ch 40 Art VI Sec. 40-175, Sec. 40-177, to update the ordinance to provide protections for heritage trees. Applicant: Town of Carolina Beach

Council requested that staff and the Commission look at options for tree protection and preservation. Past discussions of a tree preservation ordinance led to a discussion about protecting heritage trees and focusing on stormwater. The intent of the ordinance is to encourage residents to protect and replace trees pre- and post-construction.

Ms. Abbotts presented the details.

#### Current Landscaping Requirements (Trees)

##### Article VI – Landscaping and Development Specification Standards – Benefits

- Maintains visual character and aesthetics and enhances property value
- Screening
- Air purification
- Reduces glare, heat, noise
- Prevents soil erosion
- Stormwater
- Habitat

#### Buffer Yard Definition

The width of the area for the required installation of landscaping and screening materials around the entire perimeter of all lot uses, excluding single-family residences and two-family dwellings

Staff has put together three options for the Commission’s consideration and guidance. Option 1 (preserve and replace) would require a tree permit for any removal of trees within the Town along with the requirement of a tree survey to identify trees to be protected and replaced outside of the building footprint. Option 2 (replace) would require new construction and any expansions to the building footprint to provide a list of all trees on site and replace any heritage trees removed. Option 3 (incentive) allows the incentive of a flexible setback (up to 25 percent) to preserve a tree along with the option for a reduced stormwater fee by counting any trees preserved as impervious surface credit. Option 4 is maintaining the status quo and continuing to encourage tree planting.

Chairman LeCompte asked if heritage trees must be a certain caliper before being replaced. She said a scrub oak the size of a finger could technically be considered a heritage tree. Mr. Hardison said this is a good point and that there should be a minimum. Commissioner Crouch suggested that the minimum

be 6-inch caliper and asked if that could be included in the definition of a heritage tree. Ms. Abbotts said yes.

Commissioner Hogan said he is in favor of Option 2 with the previously mentioned addition. He said it shows the Town cares about trees and wants them to be replaced while also reducing extra costs for homeowners.

Vice Chairman Rouse said he is in favor of this as long as it's in the verbiage that it's outside of the building footprint so that's not in question. He also suggested adding language about the condition of a tree being removed because some dead trees might have to go. Commissioner Hogan suggested using the term "healthy."

Commissioner Crouch said there should also be clarification that the new tree be a heritage tree.

Ms. Abbotts reviewed the suggestions: add to the heritage tree definition that it should be a minimum of 6-inch caliper, make sure it says outside of the building footprint, add that the heritage tree must be healthy, and include that the new/replacement tree be a heritage tree.

Commissioner Crouch asked how a "healthy" tree would be defined and said this could be ambiguous. Vice Chairman Rouse said maybe it would be better to specify that the tree not be dead. Chairman LeCompte said if it's dead, the property owner will need to take it down anyway. Commissioner Crouch said he is worried about creating a loophole. Ms. Abbotts suggested scratching the "healthy" verbiage.

**ACTION:** Motion that the Commission, whereas in accordance with the provisions of the North Carolina General Statutes, does hereby find and determine that the adoption of the following ordinance amendment to Chapter 40, Article VI, Sec. 40-175, Sec. 40-177, to update the ordinance to provide protections for heritage trees (Option 2) is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans with the changes

Motion made by Commissioner Crouch, Seconded by Vice Chairman Rouse

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

*Motion passed 4-0*

#### 4. Update on stormwater ordinance and short-term rentals

Mr. Hardison said he has reached out to the County about getting information to help the Town develop a registration database for short-term rentals. He said the County does have that information but is not willing to share. Mr. Hardison said the County will give information on whether a specific property is paying room occupancy tax (ROT) funds but won't release any other data. He said he doesn't know where the State stands on registration, but it looks like it's not going to be allowed for the Town to do this on its own.

Commissioner Hogan said he thinks 90 percent of short-term rentals are through sites such as Airbnb or Vrbo that automatically collect and pay ROT, a process that was not in effect two years ago. He said

he thinks ROT dollars have gone up as a result of this, and while there may be some people finding a way around this, most are going through these two sites.

Chairman LeCompte said the goal is not so much regulating and seeing who is paying ROT but more for use in emergencies such as mandatory evacuations for storms and pandemics. She said the Town needs a way to make sure visitors are not here when they shouldn't be and that it's necessary to have direct contact with property owners instead of having to dig for that information. Chairman LeCompte said ROT funds are up 67 percent over last year.

Mr. Hardison said it looks like the State will likely support no regulation or registration for short-term rentals. Chairman LeCompte said it appears the Town is stuck. Mr. Hardison said he will continue to lean on the County to see if there is a different way to get the information.

Mr. Hardison said there is a State bill that says a community cannot be any more restrictive than the State with stormwater restrictions, and this could prevent the Town from requiring any additional stormwater regulations than what the State has. He said right now the Town has its own ordinance and is authorized to do so by the State, so the Town will be watching this issue closely. Mr. Hardison suggested that the Commission have a joint meeting with the Operations Advisory Committee to discuss stormwater and where the Town wants to go. Commissioners expressed support for this. Mr. Hardison said he will let the Operations Advisory Committee know and get back to Commissioners via email.

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

None

#### **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 Crouch

*Motion passed 4-0*

The meeting adjourned at 9:25 PM.



## AGENDA ITEM COVERSHEET

**PREPARED BY:** Jeremy Hardison, Planning & Development Director

**DEPARTMENT:** Planning & Development

**MEETING:** Planning & Zoning Commission – 10/14/2021

**SUBJECT:** **Conditional Zoning** to consider a mixed use commercial-residential located at 902, 1000, 1010 N. Lake Park Blvd.  
Applicant: Cape Fear Four LLC

### BACKGROUND:

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

All applications shall include a site plan and any development standards to be approved concurrently with the rezoning application. Development standards may include such things as parking, landscaping, design guidelines, and buffers. When evaluating an application for the creation of a conditional zoning district, the Planning & Zoning Commission shall consider the following:

1. The 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.
2. The potential impacts and/or benefits on the surrounding area, adjoining properties.
3. The report of results from the public input meeting.



Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one (1) public input meeting and file a report of the results with the Zoning Administrator. In approving a petition for the reclassification of property to a conditional zoning district, the Planning & Zoning Commission may recommend, that the applicant add reasonable and appropriate conditions to the approval of the petition. Any such conditions should relate to the relationship of the proposed use to the impact on the following details:

1. Town services
2. Surrounding property
3. Proposed support facilities such as parking areas and driveways
4. Pedestrian and vehicular circulation systems
5. Screening and buffer areas
6. Timing of development
7. Street and right-of-way improvements
8. Infrastructure improvements (i.e. water)
9. Provision of open space
10. Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose

If the applicant does not agree with the Planning & Zoning Commission or staff's recommendations of additional conditions, the Town Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.

No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district.

**Applicant proposes to construct:**

Building	Residential Units	Commercial Sq. Ft	Building Height
1	53	18,754 Retail 4,5445 Leasing office	50 ft
2	88	4,077 Fitness club	50 ft
3	102	2,684 Restaurant	50 ft
4	6	5,054 Live/work	50 ft
5	0	5,000 Office	50 ft
6	10	4,012 Clubhouse	50 ft
7	2	0	45 ft
<b>Total</b>	<b>261</b>	<b>44,111 Sq. Ft</b>	

## **Zoning**

The purpose of the Highway Business (HB) district is to accommodate businesses oriented toward the motoring public and which require a high volume of traffic. In many cases, businesses in the HB district serve the entire community and beyond. For the most part, they are located on major thoroughfares so that they can be conveniently reached by automobile and to avoid sending heavy automobile traffic through smaller streets or residential areas. The HB zoning district allows for mixed use commercial-residential with the approval of a conditional zoning district. The ordinance requires parcels that are over 10 acres to provide for 3,000 sq. ft. of commercial space. The proposed development consist of three parcels that will be combined prior to the issuance of a building permit for a total of 12.01 acres. Based on the size of the property 36,030 commercial sq. ft is required. The applicant is providing 44,111 sq. ft of heated commercial space with an additional 57, 711 commercial area that includes outdoor dining, retail, amenity & pool area. The residential component of the property will include 261 units.

Maximum lot coverage is 60%, which includes footprint of the building, decks, and steps. The applicant's proposed total lot coverage equals 89,650 sq. ft. or 17% lot coverage. Density of units allowed in the HB district is determined through review of a Conditional Use Permit. The applicant's structures will not exceed the maximum 50' height limit. Setbacks in the HB district are 10' (side), 30' (front), and 20' (rear). The applicant is exceeding the minimum setback requirements. The applicant is required to provide 525 parking spaces for the business and residential uses. The total provided parking by the applicant 539 spaces. A Type B 10' landscaping buffer is required on all boundaries of the property. In some areas on the site are not meeting this requirement and the applicant would need to request and be granted a landscape waiver in these areas. An 8' multiuse path is proposed on all public right-of-ways and within the development site. A portion of the property is in a floodzone that is adjacent to Saint Joseph St. A state stormwater permit would be required and the applicant is proposing approximately 1.2 acre pond.

A Traffic Impact Analysis is required for the site and will need to incorporate those required improvements. The TIA is currently being finalized by the applicants traffic engineer to submit to DOT for review. The applicants engineer is gathering data on the projected daily usage water & sewer rates to submit to the Utility Director on what infrastructure improvements are needed.

### **Conditional Zoning Process**

As part of the application process a community meeting is required. The applicant held the required meetings on August 26, 2021. The applicant has provided summary comments from the meeting. Based off the comments from the meeting the applicant can place conditions on the project to help mitigate the impacts and concerns from the neighboring properties.

The applicant is proposing the following conditions.

1. Provide for an 8' multiuse path on Saint Joseph St and N. Lake Park Blvd. and through the site connecting to the public right of ways.
2. All lighting shall be aimed, located, designed, fitted, shielded and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely

- traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
3. Install recommendations of the Traffic impact analysis.
  4. Provide daily usage of water & sewer and make improvements as required by Public Utilities
  5. Parking easement to be recorded for usage of the Jersey Mikes property.
  6. Keep existing Live oaks as depicted on the site plan.
  7. Prohibit short term rentals within the residential units.

### **Land Use Plan**

The 2020 Land Use Plan was amended in august for the vison on this area to be higher density area with a mix of uses, within the district and individual buildings. Residential uses allowed only on upper stories; unless associated with a mixed commercial-residential use on a 10 acre or greater lot with a minimum 3,000 sq ft of commercial space provided per acre.

### **ACTION REQUESTED:**

Consider recommending approval or denial of a conditional zoning mixed use commercial-residential project located at 902, 1000, 1010 N. Lake Park Blvd.

### **MOTION:**

Approval - whereas in accordance with the provisions of the NCGS, the Commission does hereby find and determine that the adoption of the Conditional Use District to allow for a Pickleball Court located at 209 Peninsula Dr 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.

Denial - based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long-range planning documents and the potential impacts on the surrounding areas.



1121 N. Lake Park Blvd.  
Carolina Beach, NC 28428  
[permits@carolinabeach.org](mailto:permits@carolinabeach.org)  
Phone (910) 458-2999

Permit # CZ 21-02

### TOWN OF CAROLINA BEACH Conditional Zoning Application

The Conditional Zoning process for the Town of Carolina Beach may be found in the ordinance (Sec. 40-527).

Prior to the application submission, the applicant must conduct a Public Input Meeting. The following are the public meeting requirements:

- The applicant must mail notice of said meeting to all property owners within 500 feet of the perimeter of the project bounds no less than 10 days prior to the meeting.
- The notice must include time, date, location, and project description.
- The applicant must maintain and submit to with their application a:
  - o A copy of the letter announcing the meeting
  - o A list of property owners contacted
  - o An attendance roster from the meeting
  - o A summary of the issues discussed
  - o The results and any changes related to the proposal based on meeting discussions

Each application submitted to staff must be legible, contain the public scoping meeting required information, and provide all other required materials to be accepted as a completed application. Supplemental application materials may include, but not be limited to, site plans, building designs, engineered drawings, stormwater designs, landscaping plans, project narratives, Federal and/or State permits/permissions, and Traffic Impact Analyses. **It is strongly suggested that the applicant set up a meeting with Planning Staff prior to the submission deadline, to ensure the application is complete.**

The Planning Department, Technical Review Committee, Planning and Zoning Commission and/or Town Council reserve the right to require additional information if needed to assure that the use in its proposed location will meet be developed in accordance with the Code of Ordinances of the Town of Carolina Beach.

Application fees. The owner or owners, or their duly authorized agent, of the property included in the application for Conditional Zoning shall submit a complete application and supplemental information to the Planning Department. A fee in accordance with the Town's adopted schedule of fees, payable to the Town of Carolina Beach, must accompany each application. For the purposes of determining the fee, the Zoning Administrator shall categorize each such Conditional Zoning Permit Application as either "major" or "minor", depending upon the complexity of review. Generally, Planned Residential (over 3 units), Mixed Uses, Business Developments, and similarly complex projects shall be categorized as "major", while projects such as bed and breakfast inns, small day care services, etc. shall be categorized as "minor".

<b>Major Conditional Zoning Permit</b>	<b>=</b>	<b>\$ 800.00</b>
<b>Minor Conditional Zoning Permit</b>	<b>=</b>	<b>\$ 350.00</b>

This permit will be scheduled for the next possible Technical Review Committee, provided the public scoping meeting has taken place and the application is otherwise complete.

2021 Submission Deadlines & Meeting Dates					
Technical Review Committee		Planning & Zoning Commission		Town Council	
Submission	Meeting	Submission	Meeting	Submission	Meeting
Jan 4	Jan 19	Jan 28	Feb 11	Feb 23	Mar 9
Feb 1	Feb 16	Feb 25	Mar 11	Mar 30	Apr 13
Mar 1	Mar 15	Mar 25	Apr 8	April 27	May 11
Apr 5	Apr 19	Apr 29	May 13	May 25	June 8
May 3	May 17	May 27	June 10	June 29	July 13
June 7	June 21	June 24	July 8	July 27	Aug 10
July 6	July 19	July 29	Aug 12	Aug 31	Sept 14
Aug 2	Aug 16	Aug 26	Sept 9	Sept 28	Oct 12
Sept 7	Sept 20	Sept 30	Oct 14	Oct 26	Nov 9
Oct 4	Oct 18	Oct 28	Nov 10	Nov 30	Dec 14
Nov 1	Nov 15	Nov 24	Dec 9		
Dec 6	Dec 20				
Board	# Copies Full Size	# Copies Electronic	Recipients		
TRC	2	1	All submissions are public information and will be shared with appropriate Federal, Local, and State agencies, news outlets, stakeholders, and citizens upon necessity or request		
P&Z	2	1			
Town Council	2	1			

**PURPOSE**

Conditional zoning allows flexibility with regard to the zoning regulations. Subject to high standards of planning and design, certain uses may be allowed in certain districts or on properties provided they can be developed to minimize any adverse effects they might have on surrounding properties. Conditional Zoning allows for public and governing board input to help any proposed project meet its goals while also contributing to the positive development of Carolina Beach.

Please complete all sections of the application.

A. Property Information

Address(es): 902, 906, 1000, and 1010 N. Lake Park Blvd.

PIN(s): R08818-002-002-000, R08818-002-013-000, R08814-003-013-000, R08814-003-015-000

Project Name The Proximity At Carolina Beach

Size of lot(s): 12.53 acres total

B. Application for Conditional Zoning

Application is hereby made for a Conditional Use Permit for use of the property described above as a (please provide a brief description of the use):

Mixed use commercial - residential including restaurant, recreational, retail office, and multifamily residential use

C. Applicant Contact Information

Cape Fear Four, LLC
Company/corporate Name (if applicable):

By its counsel: Sam Franck
Applicant's Name

127 Racine Drive Suite 101
Mailing Address

Wilmington, NC 28403
City, State, and Zip Code

910-794-4835
Telephone

SBF@wardandsmith.com
Email

D. Owner Contact Information (if different)

See Exhibit A Attached
Owner's Name

Mailing Address

City, State, and Zip Code

Telephone

Email

**Check the box beside each item verifying that the item has been submitted with this application**

**I. Site Plan Criteria**

For new construction all boxes in this section shall be marked yes by the applicant to be considered a complete application.

- | <u>Yes</u>                          | <u>No</u>                | <u>N/A</u>               |  |
|-------------------------------------|--------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The name, address, and phone number of the professional(s) responsible for preparing the plan if different than the applicant.     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Engineers scale 1 inch = 40 ft or larger   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Title block or brief description of project including all proposed uses  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Date   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | North arrow  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Property and zoning boundaries   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The square footage of the site   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Lot coverage (buildings, decks, steps)   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location of all existing and proposed structures and the setbacks from property lines of all affected structures to remain on-site |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Design of driveways and parking  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Adjacent right-of-ways labeled with the street name and right of way width   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location of all existing and/or proposed easements   |

Additional information or data as determined necessary by town staff and/or other reviewing agencies including but not limited to the following may be required:

- | <u>Yes</u>                          | <u>No</u>                | <u>N/A</u>               |   |
|-------------------------------------|--------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location and design of refuse facilities  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Approximate locations and sizes of all existing and proposed utilities  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Existing and/or proposed fire hydrants (showing distances)  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Adjacent properties with owners' information and approximate location of structures   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Distances between all buildings   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Number of stories and height of all structures  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Locations of all entrances and exits to all structures  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Calculate the gross floor area with each room labeled (i.e. kitchen, bedroom, bathroom)   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be use       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location of flood zones and finished floor elevations (Flood Zones)   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | CAMA Areas of Environmental Concern (AEC) and CAMA setbacks   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Delineation of natural features and wetlands with existing and proposed topography with a maximum of two-foot contour intervals |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Proposed landscaping including percentages of open space  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Stormwater management systems   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Cross-sectional details of all streets, roads, ditches, and parking lot improvements  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Building construction and occupancy type(s) per the building code   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Location of fire department connection(s) for standpipes  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Turning radii, turnarounds, access grades, height of overhead obstructions  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | Dimensions and locations of all signs   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | A vicinity map drawn with north indicated   |

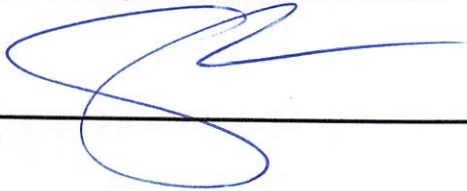
- I have provided a scaled electronic version of each required drawing
- I have folded all plans to 8 1/2" x 11" size and am prepared to pay the application fee today

---

**SUPPLEMENTAL INFORMATION REQUIRED WITH THE APPLICATION**

1. Detailed project narrative describing the proposed site and request.
2. Agent form if the applicant is not the property owner
3. Request for site specific vesting plan shall be submitted in accordance with Chapter 40 Article XIII

**OWNER'S SIGNATURE:** In filing this application for a conditional zoning, I/we as the property owner(s), hereby certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief.



---

Signature

9/7/2021

Date

Please see the following attached:

- Exhibit A - owners  
Owner Authorizations
- Exhibit B- Land and Project Summary
- Exhibit C- Summary of Community Meeting & Engagements
- Site Specific Development Plan



**BULK REQUIREMENTS (HB- HIGHWAY BUSINESS DISTRICT)**

	REQUIRED	PROVIDED
MIN. LOT AREA	10,000 SF	523,155 SF (12.01 AC)
MIN. LOT WIDTH	100'	653'
MIN. FRONT SETBACK	30'	30'
MIN. SIDE INTERIOR SETBACK	10'	10'
MIN. CORNER SIDE SETBACK	10'	N/A
MIN. REAR SETBACK	15'	15'
MAX. LOT COVERAGE (BUILDINGS)	60% (314,939 sf)	17% (89,650 sf)
LANDSCAPE BUFFER	10' - TYPE B	10' - TYPE B
MAX. BUILDING HEIGHT	50' MAX.	50' MAX.
BUILDING 1 - 3		50' (4 STORY)
BUILDING 4 - 5		50' (3 STORY)
BUILDING 6 (CLUBHOUSE/ AMENITY BUILDING)		50' (3 STORY)
BUILDING 7 (CARRIAGE HOUSE / GARAGES)		45'

**LOW IMPACT DEVELOPMENT:**

LID TECHNIQUES WILL BE USED THROUGHOUT THE PROJECT TO MITIGATE STORM WATER RUNOFF.

LID TECHNIQUES WILL INCLUDE:

- PERVIOUS PAVING
- INFILTRATION BASINS AND RAIN-GARDENS
- NATIVE LANDSCAPING
- CAPTURING OF ROOFTOP RAIN WATER

**PROXIMITY PROJECT - GROUND FLOOR COMMERCIAL USE SUMMARY**

BUILDING 1 -	18,754 SF	COMMERCIAL RETAIL
	4,544 SF	LEASING
BUILDING 2 -	4,077 SF	FITNESS CLUB
BUILDING 3 -	2,684 SF	RESTAURANT
BUILDING 4 -	5,040 SF	LIVE / WORK
BUILDING 5 -	5,000 SF	CLASS A OFFICE
BUILDING 6 -	4,012 SF	CLUBHOUSE

44,111 SF - TOTAL HEATED COMMERCIAL AREA (3,672 SF PER ACRE)

57,711 SF - TOTAL COMMERCIAL INCLUDING OUTDOOR DINING, RETAIL & AMENITY & POOL AREA

**MIXED-USE COMMERCIAL - RESIDENTIAL OFF-STREET PARKING**

	REQUIRED	PROVIDED
BUILDING 1- RETAIL (18,754 SF / 200)	94 SPACES	94 SPACES
LEASING OFFICE (4,544 SF / 300)	15 SPACES	15 SPACES
BUILDING 2 - FITNESS (4,077 SF / 200)	20 SPACES	20 SPACES
BUILDING 3 - RESTAURANT (2,684 SF / 110)	24 SPACES	24 SPACES
OUTDOOR DINING (1,200 / 220)	6 SPACES	6 SPACES
BUILDING 4 - LIVE / WORKS (5,040 SF / 300)	17 SPACES	17 SPACES
BUILDING 5 - OFFICE (5,000 SF / 300)	17 SPACES	17 SPACES
BUILDING 6 - CLUBHOUSE (4,012 SF / 200)	20 SPACES	20 SPACES
POOL AREA (2500 SF / 75)	33 SPACES	33 SPACES
JERSEY MIKES (2,000 SF / 110)	18 SPACES	18 SPACES
<b>TOTAL COMMERCIAL PARKING</b>	<b>264 SPACES</b>	<b>264 SPACES</b>

**RESIDENTIAL INCLUDED IN MIXED-USE COMMERCIAL - RESIDENTIAL**

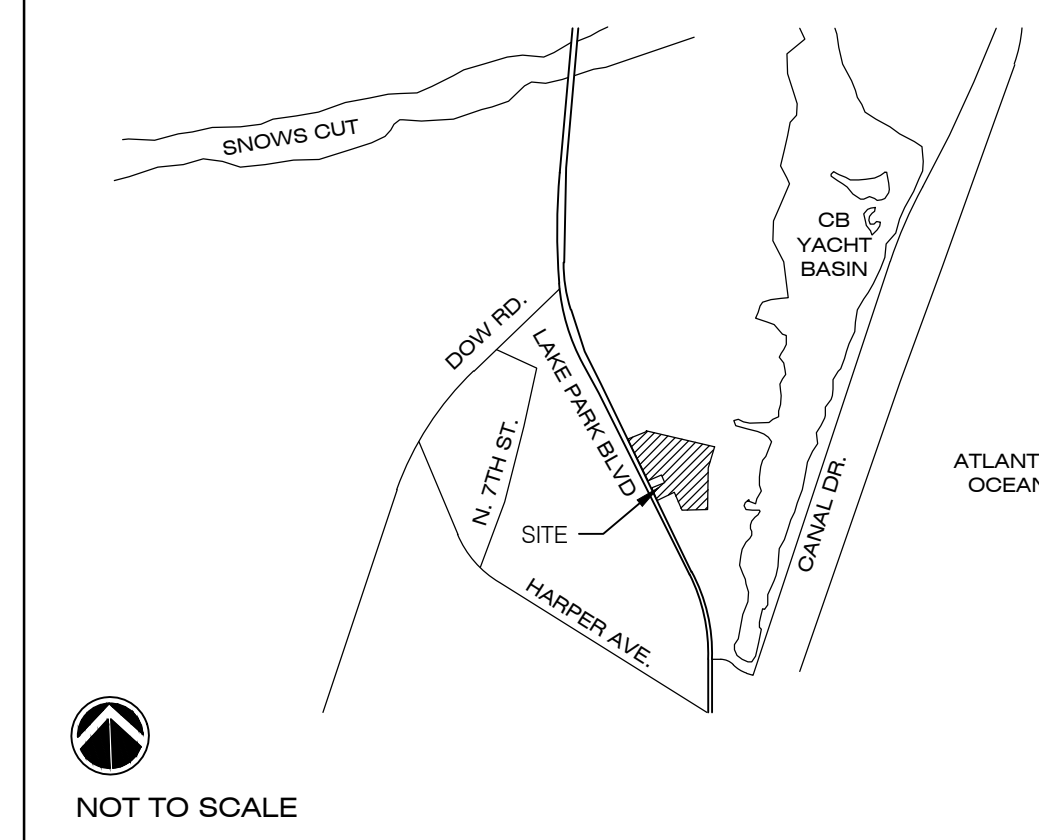
(1 space / unit)	261 SPACES	275 SPACES
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**TOTAL PARKING:** 525 SPACES 539 SPACES

**RESIDENTIAL UNITS**

	UNITS
BUILDING 1	53
BUILDING 2	88
BUILDING 3	102
BUILDING 4 - LIVE / WORK	6
BUILDING 6 - CLUBHOUSE	10
BUILDING 7 - CARRIAGE UNITS	2
<b>TOTAL RESIDENTIAL UNITS</b>	<b>261 UNITS</b>

**VICINITY MAP**



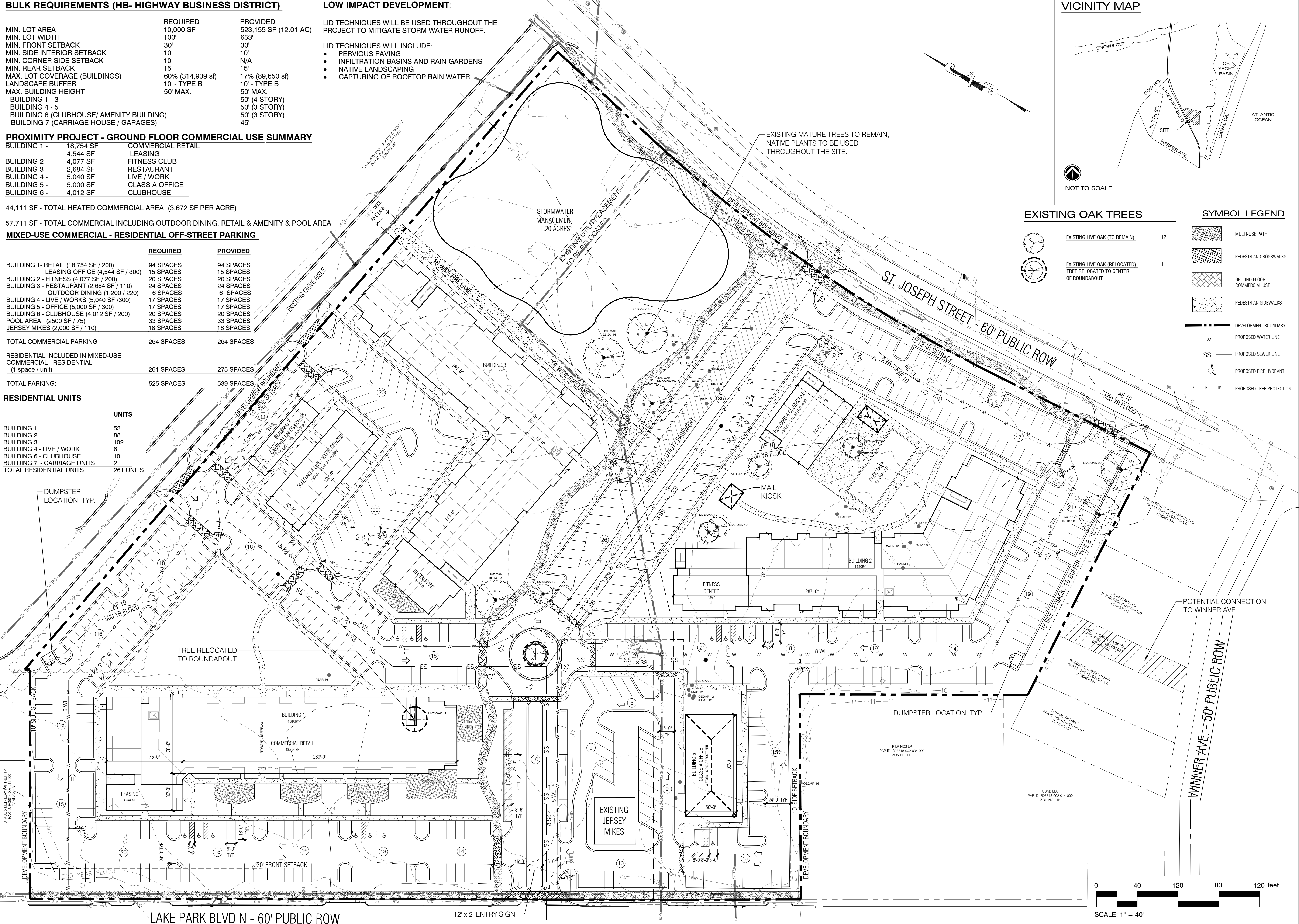
**EXISTING OAK TREES**

- EXISTING LIVE OAK (TO REMAIN) 12
- EXISTING LIVE OAK (RELOCATED) TREE RELOCATED TO CENTER OF ROUNDABOUT 1

**SYMBOL LEGEND**

- MULTI-USE PATH
- PEDESTRIAN CROSSWALKS
- GROUND FLOOR COMMERCIAL USE
- PEDESTRIAN SIDEWALKS
- DEVELOPMENT BOUNDARY
- PROPOSED WATER LINE
- PROPOSED SEWER LINE
- PROPOSED FIRE HYDRANT
- PROPOSED TREE PROTECTION

Revisions  
2021-10-06: REVISED PER TRC COMMENTS



**PROJECT**  
**THE PROXIMITY**  
1000 LAKE PARK BLV N  
CAROLINA BEACH, NC  
SITE PLAN

**SITE PLAN**

Date: 9/6/2021  
Phase:  
Job Number: 400-26  
Designed by: MLD  
Drawn by: MAS  
Checked by: JWM  
Sheet Title:  
**SITE PLAN**

Sheet Number:  
**L1.0**  
of 1 sheets



Exhibit A

Jubilee Carolina, LLC  
701 Crestdale Road  
Matthews, NC 28105

Attn: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

HT Fuel NC, LLC  
701 Crestdale Road  
Matthews, NC 28105

Attn: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_

MCCL Investments LLC  
2731 Miller Lane  
Hendersonville, NC 28791

Attn: Christina Long  
Email Address: Christinalongrealtor@gmail.com  
Telephone Number: (828) 606-1230

Coastal KM Ventures, LLC  
1202 N Lake Park Blvd.  
Suite A  
Carolina Beach, NC 28428

Attn: Matt Murphy  
Email Address: matt@secofconstruction.com  
Telephone Number: (910) 443-6424

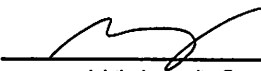
AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF

The undersigned owner, MCCL Investments LLC, does hereby appoint Cape Fear Four, LLC, by its counsel, Samuel B. Franck to act on my behalf for the purpose of petitioning the Town of Carolina Beach for: a) an amendment to the text regulations; and b) approval of conditional zoning as applicable to the property described in the attached petition. The owner does hereby covenant and agree with the Town of Carolina Beach that said person has the authority to do the following acts for and on behalf of the owner: (1) To submit a proper petition and the required supplemental materials: (2) To appear at public meetings to give testimony and make commitments on behalf of the owner; and (3) In the case of a special use permit, to accept conditions or recommendations made for the issuance of the special use permit on the owner's property. (4) To act on the owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition. This appointment agreement shall continue in effect until final disposition of the petition submitted in conjunction with this appointment.

Date: 9/3/2021

Appointee's Name- Address & Telephone:

MCCL Investments LLC  
2731 Miller Lane  
Hendersonville, NC 28791

Signature of Owner:   
Email Address: christinalongrealtor@gmail.com  
Telephone Number: 828-608-1230

[Faint, illegible text block]

AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF

The undersigned owner, Coastal KM Ventures, LLC, does hereby appoint Cape Fear Four, LLC, by its counsel, Samuel B. Franck to act on my behalf for the purpose of petitioning the Town of Carolina Beach for: a) an amendment to the text regulations; and b) approval of conditional zoning as applicable to the property described in the attached petition. The owner does hereby covenant and agree with the Town of Carolina Beach that said person has the authority to do the following acts for and on behalf of the owner: (1) To submit a proper petition and the required supplemental materials; (2) To appear at public meetings to give testimony and make commitments on behalf of the owner; and (3) In the case of a special use permit, to accept conditions or recommendations made for the issuance of the special use permit on the owner's property. (4) To act on the owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition. This appointment agreement shall continue in effect until final disposition of the petition submitted in conjunction with this appointment.

Date: 9/3/2021

Appointee's Name Address & Telephone:

Coastal KM Ventures, LLC  
1202 N Lake Park Blvd.  
Suite A  
Carolina Beach, NC 28428

DocuSigned by:  
Matt Murphy  
Signature of Owner: \_\_\_\_\_  
Email Address: matt@secoconstruction.com  
Telephone Number: (910) 443-6424

## Exhibit B

### Land and Project Summary

The Proximity development will be located on the long-vacant site including approximately 12 acres, located in the heart of the Highway Business zoning district between N. Lake Park Blvd. and St. Josephs St. The development is located just south of the new Publix shopping center, southeast of the existing ABC store and Wings, and east, across N. Lake Park Blvd., from several established businesses.

Consistent with the Carolina Beach Future Land Use Plan, the Proximity is a commercial-residential mixed-use development that will include multiple restaurants with outdoor dining, Class-A office, co-work, and live/work space, a fitness and pool amenity center that will be open to citizens on an annual membership basis, retail space, and year-round luxury apartments. It is anticipated that the residential options will include one and two bedroom apartments. The retail and restaurant commercial uses are focused along the N. Lake Park Blvd. right of way, and the recreational and live/work uses are located closer to the interior of the development.

As reflected on the included site plan, the buildings included in the development have been designed with careful consideration of both efficient design and consideration of the interaction with, or buffering from, neighboring uses. The more active commercial uses are oriented towards the N. Lake Park Blvd. corridor, and the existing commercial neighbors, while the stormwater management facilities, parking areas, and lower impact residential uses are oriented closer to the St. Joseph St. corridor and the neighboring residences to the south. The project has been designed to satisfy all applicable setback and buffer requirements, and within the applicable height restrictions, without the need for any variances to the same.

In addition to the development of desirable year-round rental housing, work-share and live/work spaces, and multiple restaurants, the development incorporates many design considerations that are focused on the benefit of the Carolina Beach community. These include:

- Streetscape improvements along Lake Park Boulevard, including trees and pedestrian connectivity, aimed at creating a “Main Street” feel
- Pedestrian and bicycle interconnectivity, including expansion and incorporation into the Island Greenway System.
- Engineered drainage, low-Impact site design and stormwater management

- Tree preservation and relocation to protect several significant trees located on the property.
- Resort-style pool and fitness facilities for residents at the Proximity, and for Carolina Beach citizens who elect to secure annual memberships
- Significant accommodations for golf cart and electric vehicle use, including charging stations and allocated parking.

Based on our traffic impact analysis, prepared by Kimley-Horn engineering, the total daily trip generation for this development is ***less than half*** of the trip generation for the previously approved development of this site with a supermarket anchor and a gas station. The morning peak hour trip generation for the proposed development is ***11% lower*** than the previously approved project, and the afternoon/evening trip peak hour generation is ***substantially, 50%, lower*** than the previously approved project.

The development is located between two significant public rights of way, and utilities are available on and at the boundaries of this land. All utilities will be located underground. The details for water and sewer capacity, and to establish electric and communication utilities will be determined and established during engineering and design of the project, after this zoning approval.

The project has multiple points of access to major public thoroughfares to provide for emergency vehicle access. It will include signage and lighting for all cross walks, and the interior roadways are designed to attenuate traffic. Consideration has also been given to an interior traffic pattern that reduces intersections and distances between points of entry and commercial amenities. It is anticipated that the buildings will include sprinkler systems.

The noise impact from the development on adjoining property should be nominal. The outdoor restaurant uses are located along N. Lake Park Blvd. and on the interior of the development. The outdoor recreational amenities are also located on the interior of the development. Indoor restaurant, retail and office uses do not tend to generate noise pollution. The multifamily residential will be subject to reasonable rules and regulations regarding noise and nuisance.

It is anticipated that trash will be collected at each unit's front door by our vendor and taken to a common trash compactor on site which will be enclosed by a wall and gates. Anticipated trash collection locations are depicted on the site plan.

The project does not contemplate lighting that would create a glare nuisance or light pollution, and consideration will be given to parking and interior street lighting with regard to the same. The site lighting will be designed and installed by Duke Power and will be designed to minimize light trespass. We do not anticipate significant lighted signage for the development. The Highway Business district is,

by design, a well activated area of the Town. The uses proposed here are inherently lower impact than the exclusively commercial and retail uses that primarily surround this development. Lighted signs will be minimal, and will not include any neon and/or flashing lights. Signage will be designed outside of sight triangles so as not impede visibility or traffic safety.

The Proximity will be a beautiful mixed-use community with a blend of residential, retail and office, all of which will be in keeping with the character of the neighborhood. Located adjacent to Publix Commons at Federal Point, The Proximity will integrate well with the existing commercial developments in the area to further establish a truly mixed-use area in a prime location. As planned, The Proximity will be a true community asset, providing year-round housing options, connectivity, restaurants and retail, all while seamlessly fitting into the surrounding neighborhood.

ND: 4830-6337-6890, v. 2



Exhibit C

Summary of Community Meeting and Engagement

Proposed Conditional Zoning for Commercial-Residential Mixed Use Development  
in Highway Business Zoning District  
1000 Lake Park Blvd.  
Carolina Beach, NC  
Cape Fear Four, LLC

Written notice of a community meeting for the above referenced conditional zoning was mailed via First Class Mail to all property owners within five hundred feet (500') of the subject property as listed on the New Hanover County ("County") tax records, and that the same was submitted to the Town planning department on August 17, 2021. A list of all adjacent property owners to whom written notice was mailed is attached to this report as Exhibit 1. A copy of the written notice is attached as Exhibit 2. A list of the parties who registered to attend the meeting is attached at Exhibit 3, and a list of those who attended is attached as Exhibit 4.

The meeting was held on August 26, 2021 at the subject property. The meeting began at 5:30pm, and continued until 7:45pm. Due to the open house style format of the meeting, we believe that more citizens attended than signed in –estimate approximately 100 attendees.

On behalf of the applicant, Cape Fear Four, LLC ("Cape Fear"), the following people were in attendance: Mike Brown, Brian Eckel, Bill Schoettelkotte, and Vin Wells, all with Cape Fear, Josh Mihaly, landscape architect, John Tunstall, civil engineer with Norris & Tunstall Engineering, and a representative of our traffic engineer with Kimley Horn Engineers.

Prior to that community meeting, Cape Fear met with several stakeholders, elected, and appointed officials in the community on August 24, 2021.

In addition to the primary community meeting, Cape Fear also invited interested community members to attend smaller meetings to discuss the project on August 30 and 31, and on September 1.

A publicly available website for the development has been available at <https://theproximitycb.com/>, since August 25, 2021, and community members and neighbors have the opportunity to post comments via that website.

Members of the Cape Fear development team have also engaged in one on one conversations and correspondence with a number of members of the community, and members of the Planning and Zoning Board and Town Council members during August and early September of 2021.

Based on the aforementioned community meeting, follow up meetings and other opportunities for community engagement, we understand the following concerns and suggestions from the community:

### **Detailed Suggestions and Considerations**

1. Walkable/bike friendly development.
2. Place residential density in the appropriate areas and the request that commercial development not be located on St. Joseph Street (vs. residential which is more in keeping with surrounding uses).
3. Infrastructure considerations
  - a. Traffic congestion, specifically a desire to limit congestion on St. Joseph was expressed by several residents in addition to comments about congestion on Lake Park Blvd.
  - b. Manage onsite storm water to eliminate flooding.
  - c. Concerns were expressed about water/sewer capacity availability and fire protection.
  - d. Desire for a light at Winner Ave.
  - e. Desire for a connection on Winner Ave (and, also from others, a desire for no connection on Winner Ave).
4. Architecture to be coastal in character and in keeping with the fabric of Carolina Beach.
5. Tree preservation and use of native plantings
6. Low Impact Design stormwater management measures (impervious concrete, rain barrels, infiltration).
7. Improvements to Lake Park Blvd Streetscape (street trees, plantings, sidewalk).
8. Include park space and open space.
9. Include murals and artwork.
10. Desire for the project not to be gated.
11. A desire from the owner of Wings that their parking lot connect to the Proximity project.
12. Electric vehicle charging opportunities.

### **Comments related to the total development**

13. Some citizens asked that the commercial space to be limited in size (no large scale shopping center).
14. Other citizens asked that the property be developed all commercial, without a residential component.
15. Another subset of citizens asked that the site never be developed.
16. And, others, that the property be dedicated as a public park space.
17. Some citizens expressed their wish that the front of the site to be developed and for the rear of the site to be left undeveloped.
18. We also heard concerns about light pollution, specifically in reference to nesting sea turtles.

### **Community Considerations and Requests**

19. Consideration for electric and internet service on St. Joseph, which experiences disruptions per one comment from a neighbor.
20. Consideration for the potential for school overcrowding.
21. Requested consideration for water quality and pollution.
22. Desire for community to invest in upkeep of streets (pot holes, etc).
23. Desire for a median on Lake Park Blvd.
24. Some residents asked that we include community pool, fitness, and recreational opportunities (lap swim/swim lessons/swim team).
25. Desire to maintain the unique community identity (beach town with close knit community where neighbors know and support one another).

### **Development Operation Suggestions**

26. Several community members expressed a desire for there to be no short term rentals (while some other neighbors volunteered that they are not opposed to short term rentals).

### **Comments Regarding Community Engagement and Process, and aspects of the design that were already included**

27. Several residents expressed an appreciation for the level of community engagement and outreach.
28. We also heard an appreciation that the developer is local and working to accommodate community concerns and bring forward a high quality cohesive project.
29. An appreciation for the quality of the Publix development.
30. An appreciation for the planned golf cart parking and golf cart charging stations.
31. An appreciation for outdoor dining and retail opportunities within the plan.
32. An appreciation for the upgraded LID and stormwater treatment measures.
33. An appreciation for developer's intention to target high end local retailers and restaurants.
34. An appreciation for "live work" offerings, office offerings, and flex/executive office opportunities.
35. An appreciation for developer's willingness to improve the Jersey Mike's parking lot and access.

While it is too early in the design process to address some of the concerns noted about engineering for utilities, drainage and the like, or the specific architectural details of the plan, several changes to the conceptual site plan design have been incorporated in response to these thoughts from our neighbors.

Based on the input we have heard and discussed through community engagement, the following adaptations have been incorporated into the proposed site plan design:

- A. More expansive incorporation of pedestrian and bicycle paths and interconnectivity.
- B. Reduction in density of residential homes by approximately 20%.
- C. Increase in the utilization of additional first floor space for desirable commercial purposes: an additional restaurant, expanded fitness center, and additional office space.
- D. Incorporation of a larger amenities and fitness facility that can be made available to citizens on an annual membership basis.
- E. A more precise tree saving plan that includes not only preservation of several significant trees in their current locations, but also relocation of other significant trees on the property.
- F. Incorporation of additional golf cart focused infrastructure.
- G. Commitment to keep the development ungated.
- H. Commitment to prohibit short term rentals.
- I. The stormwater management program will focus on improving stormwater impacts on adjacent properties;

Exhibit 1**List of Adjacent Property Owners Who Received Notice**

<b>Parcel Number</b>	<b>Owner</b>	<b>Owner Mailing Address</b>
R08818-002-004-000	RILP NC2 LP	11995 El Camino Real San Diego, CA 92130
R08818-002-014-000	CBAD LLC	1009 Lake Park Blvd., Suite B3 Carolina Beach, NC 28428
R08818-002-005-000	Bertran J and Gloria Pearson	Post Office Box 96 Kinston, NC 28502
R08818-002-006-000	William T. and Lillia Harral	208 Kirkfield Drive Cary, NC 27518
R08818-002-007-000	Warren R. Passmore Heirs	9829 River Road Wilmington, NC 28412
R08818-002-008-000	Town of Carolina Beach	1121 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-002-009-000	Island Breeze of CB LLC	1628 Sound Watch Drive Wilmington, NC 28409
R08818-002-010-000	Longs Rental Investments LLC	107 Carolina Sands Drive Carolina Beach, NC 28428
R08818-007-013-000	Hoplite Properties LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-007-011-000	Hoplite Properties LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-007-019-000	Quality Home Repair & Maintenance Inc.	103 Winner Avenue Carolina Beach, NC 28428
R08818-007-007-000	PDA Ventures LLC	10820 Cahill Road Raleigh, NC 27614
R08818-007-006-000	Gabby LLC	713 Saint Joseph Street Carolina Beach, NC 28428
R08818-007-005-000	Gabby LLC	713 Saint Joseph Street Carolina Beach, NC 28428
R08818-007-004-000	Michael D. and Christina A. Puritis	9009 Saint Stephens Place Wilmington, NC 28412
R08818-007-003-001	Michael D. and Christina A. Puritis	9009 Saint Stephens Place Wilmington, NC 28412

R08818-007-020-000	St. Joseph Business COA	Post Office Box 715 Carolina Beach, NC 28428
R08818-007-002-002	JSL CB Properties LLC	1108 Merchant Lane Carolina Beach, NC 28428
R08818-007-021-000	Sami T. Al-Ama and Ousama M. Al-Ama	700 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-007-015-000	Sami T. Al-Ama and Ousama M. Al-Ama	700 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-007-014-000	Ralph W. Roof Living Trust	221 Lochview Drive Cary, NC 27518
R08818-006-050-000	Island Marina Enterprises LLC	511 Clarendon Blvd. Carolina Beach, NC 28428
R08818-006-052-000	Sound View UOA Inc.	1029 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-006-007-000	Kathie A. Winseck	800 Saint Joseph Street Carolina Beach, NC 28428
R08818-006-030-000	David C. Winner, Jr.	406 Atlanta Avenue Carolina Beach, NC 28428
R08818-006-048-000	Federal Point Yacht Club	910 Basin Road Carolina Beach, NC 28428
R08818-006-042-000	David A. and Nichole E. Weimer	105 Rum Cary Road Carolina Beach, NC 28428
R08818-006-043-000	James C. and Natalie H. Pierce	7201 Laurel Point Drive Gibsonville, NC 27249
R08818-006-044-000	Michael H. Womble	3631 Wind Sock Court Eastover, NC 28312
R08818-006-041-000	Susan S. Scandura Revocable Trust	103 Rum Cay Road Carolina Beach, NC 28428
R08818-006-040-000	Keith S. and Melanie C. Steuer	1215 Briers Creek Drive Alpharetta, GA 30004
R08818-003-006-000	Yacht Road Property LLC	8108 Needle Grass Way Wilmington, NC 28412
R08818-003-005-000	Bonnie L. Bird	405 Marina Street Carolina Beach, NC 28428
R08818-003-003-000	Shelley Hancock ETAL	16718 Five Point Road Locust, NC 28097

R08818-006-034-000	Daniel P. and Kimberly Kay Stiff	103 Hopetown Road Carolina Beach, NC 28428
R08818-006-039-000	Kimberly R. and Michael F. Tenover	101 Hopetown Road Carolina Beach, NC 28428
R08818-003-002-001	KTS Rental Properties LLC	9108 Needle Grass Way Wilmington, NC 28412
R08818-003-002-000	Hubert Owen McLamb and Margaret M. Lee	902 N Wall Street Benson, NC 27504
R08818-006-035-000	Gregory W. and Cynthia R. Moore	104 Hopetown Road Carolina Beach, NC 28428
R08818-006-038-000	Herbert Jerry and Rebecca J. Byrd	900 Grand Bahama Drive Carolina Beach, NC 28428
R08818-003-008-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-003-001-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-003-007-000	Hubert O. and Margaret McLamb	902 N Wall Street Benson, NC 27504
R08818-004-011-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-004-010-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-004-012-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-004-009-000	Quality of Life CB LLC	917 Basin Road Carolina Beach, C 28428
R08818-004-014-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-004-008-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08818-004-060-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08814-004-016-000	CBBY LLC	701 N Lake Park Blvd. Carolina Beach, NC 28428
R08814-004-062-000	Brian and Jammie Benthem	908 Grand Bahama Drive Wilmington, NC 28405

R08814-004-061-000	Jonathan T. and Wendy Richardson	905 Grand Bahama Drive Carolina Beach, NC 28428
R08818-006-036-000	Earl Clyde Kelly	Post Office Box 84 Semora, NC 27343
R08818-006-037-000	Anthony Stiff	902 Grand Bahama Drive Carolina Beach, NC 28428
R08814-004-064-000	Kevin R. and Angela B. Besecker	40 Hillwind Court Greensboro, NC 27408
R08814-004-063-000	Dennis and Debbie Triplett	906 Grand Bahama Drive Carolina Beach, NC 28428
R08814-004-007-000	Mona Black Marina LLC	5553 Oleander Drive Wilmington, NC 28403
R08814-003-019-000	PSM North Carolina Holdings LLC	Post Office Box 32018 Lakeland, FL 33802
R08814-004-047-000	Jeffrey M. Lee	1001 Waterview Place Carolina Beach, NC 28428
R08814-003-011-000	PSM North Carolina Holdings LLC	Post Office Box 32018 Lakeland, FL 33802
R08814-004-048-000	Mary Haila Hampton	1020 Saint Joseph Street Carolina Beach, NC 28428
R08814-004-046-000	Herbert T. and Lori L. Jerread	1003 Waterview Place Carolina Beach, NC 28428
R08814-004-045-000	Mark and Kim Roundtree	6099 Centre Camp Court Greensboro, NC 27455
R08814-004-044-000	David T. and Denise F. Anderson	1007 Waterview Place Carolina Beach, NC 28428
R08814-004-043-000	Joseph L. and Betty B. Hudson	1009 Waterview Place Carolina Beach, NC 28428
R08814-004-042-000	Barbara M. Bigley	Post Office Box 994 Carolina Beach, NC 28428
R08814-004-041-000	Paula J. Brannen	1013 Waterview Place Carolina Beach, NC 28428
R08814-004-049-000	Dan Edwards Leonard, Jr. and Lisa Kay Leonard	1022 Waterview Court Carolina Beach, NC 28428



R08814-003-073-000	Carolina Beach Village HOA	1009 N Lake Park Blvd., A-4 Carolina Beach, NC 28428
R08814-003-012-000	Shaul & Meir Levy Partnership	c/o L&L Wings Inc. 666 Broadway Avenue, Floor 8 New York, NY 10017
R08814-003-011-001	New Hanover County ABC Board	Post Office Box 3036 Wilmington, NC 28406Post
R08814-003-009-000	Richard and Cynthia Wallace	Post Office Box 480 Kure Beach, NC 28449
R08814-003-010-000	William Thomas and Joy Bordeaux	Post Office Box 552 Carolina Beach, NC 28428
R08814-003-044-000	Thomas L. and Barbara M. Savarese	101 Lighthouse Drive Carolina Beach, NC 28428
R08814-003-045-000	Craig M. Wachter	103 Lighthouse Drive Carolina Beach, NC 28428
R08814-003-046-000	Harry Mark and Martha B. Arthur	105 Lighthouse Drive Carolina Beach, NC 28428
R08814-003-047-000	George and Leah Ryer	23 Collier Drive Carmel, NY 10512
R08814-003-048-000	John M. and Sharon M. Rondeau	109 Lighthouse Drive Carolina Beach, NC 28428
R08814-003-049-000	Elizabeth M. Thigpen	111 Lighthouse drive Carolina Beach, NC 28428
R08814-003-050-000	RSP Properties LLC	1028 Waterview Court Carolina Beach. NC 28428
R08814-003-051-000	Deborah S. Sullivan	115 Lighthouse Drive Carolina Beach, NC 28428
R08814-003-052-000	John P. and Claudia A. Bennett	117 Lighthouse Drive Carolina Beach. NC 28428
R08814-003-053-000	Ashley J. and Mary R. Faulkner	2601 Countrywood Road Raleigh, NC 27615
R08814-003-054-000	Neusa R. Cabral	121 Lighthouse Drive Carolina Beach, NC 28428

Addresses obtained from a review of the New Hanover County GIS tax records.

Exhibit 2

**Copy of Community Notice  
(attached)**



SAMUEL B. FRANCK, Attorney at Law

127 Racine Drive  
University Corporate Center (28403)  
Post Office Box 7068  
Wilmington, NC 28406-7068

P: 910.794.4835  
F: 910.794.4877  
sbf@wardandsmith.com

August 16, 2021

**TO: Neighboring Property Owners**  
**FROM: Cape Fear Four, LLC**  
**RE: The Proximity - Notice of Public Input Meeting Regarding Conditional Zoning**

Dear Neighbors,

I am writing to you on behalf of Cape Fear Four, LLC, an entity owned by four longtime Cape Fear residents: Mike Brown, Brian Eckel, Bill Schoettelkotte and Vin Wells, regarding a planned development on the property located between Lake Park Blvd. and St. Joseph St., near Winner Ave. (Parcel ID Numbers: R08818-002-013-000; R08814-003-015-000; R08814-003-013-000; and R08818-002-002-900) (collectively, the "property").

Plans for this property, to be called The Proximity, call for a mixed-use development featuring a thoughtful blend of residential, restaurant, retail, office and live-work. The development is designed to provide visible commercial space along the Lake Park Blvd. corridor, and to promote pedestrian interconnectivity through this development and to the adjacent commercial developments.

The applicant, Cape Fear Four, LLC, is owned by the above mentioned individuals, and is a subsidiary of GHK Cape Fear Development, LLC. They have a longstanding history of developing thoughtful, high-standard projects that positively contribute to the surrounding community, and will bring this same approach to The Proximity.

You are invited to attend a neighborhood meeting to discuss the required Conditional Zoning needed to facilitate development of a mixed-use commercial-residential development. A proposed site plan showing the development concept, and context plan depicting the integration of the site with adjoining development, are included here for your reference.

Please join us on August 26, at 5:30 p.m. at the Property. Representatives of The Proximity team including the applicant, civil engineering, traffic engineering and landscape architecture teams, will be in available. We look forward to the opportunity to share more details about this proposed development, and welcome your questions and comments. Please register via email at [contact@theproximitycb.com](mailto:contact@theproximitycb.com).

ASHEVILLE GREENVILLE NEW BERN RALEIGH WILMINGTON

[www.wardandsmith.com](http://www.wardandsmith.com)

WARD AND SMITH, P.A.

The Proximity – Neighborhood Meeting  
Page 2

If you have any questions regarding the topics to be covered at the meeting, or wish to comment on the proposed application outside the context of this community meeting, please contact us at [contact@theproximitycb.com](mailto:contact@theproximitycb.com).

Best regards,



Sam Franek  
— Counsel to Cape Fear Four, LLC

Exhibit 3**Parties who Registered for Community Meeting**

<b>NAME</b>	<b>EMAIL</b>
<b>Jasmine McKee</b>	<b>islandgazette@aol.com</b>
<b>Liz Thigpen</b>	<b><u>ethigpen@hotmail.com</u></b>
<b>Darrell and Linda Lee</b>	<b><u>dlee45@triad.rr.com</u></b>
<b>H. Mark Arthur</b>	<b>arthurprco@gmail.com</b>
<b>Greg Wallace</b>	<b><u>greg@richardwallacebuilder.com</u></b>
<b>James and Natalie Pierce</b>	<b><u>carolinaeyz@gmail.com</u></b>
<b>Michelle Steele</b>	<b>michellemsteele312@gmail.com</b>
<b>Greg Reynolds</b>	<b>greg.reynolds.architecture@gmail.com</b>
<b>Paul Levy</b>	<b>thelevysatthebeach@gmail.com</b>
<b>Fred Tolhurst</b>	<b>fred.tolhurst@dentons.com</b>
<b>Mary Garthaus</b>	<b>mary@wingsbeachwear.com</b>
<b>Clyde Kelly, Conoway, Pierce</b>	<b>Clyde@esinc.net</b>
<b>Cindy Dunn</b>	<b>cdunn4765@gmail.com</b>
<b>Mona Black</b>	<b>(910) 520-5242</b>

<b>Cynthia Remahl</b>	<b>CynthiaRemahl@Intracoastalrealty.com</b>

**Exhibit 4**  
**Community Meeting Attendees**

<b>NAME</b>	<b>EMAIL</b>
Mark LeBlanc	mleblanc1011@gmail.com
Natalie Pierce	carolinaeyz@gmail.com
Jim Pierce	jcpierce3rd@gmail.com
Ginny Baker	ginny@triangleexperts.com
Casey Sumner	casey.sumner@yahoo.com
Maggie Tallon	N/A
Dan Leonard	dedward.leonard@gmail.com
Al Anderson	195nbroome@gmail.com
Delores Anderson	
Greg Wallace	greg@richardwallacebuilder.com
Cindy Dunn	cdunn4765@gmail.com
Randy Simon	marinemanagementnov2009@gmail.com
Ben Say	benandcrhis2@bellsouth.net
Chris Say	lepetitbijoucb@outlook.com
Mike Hoffer	mike@mikehoffer.com
Shelley Steele	shelley@harboroaksassociation.com
Crystal Mitchell	cmitchell@gpminvestments.com
Debbie Conaway	dconaway10@gmail.com
Bill Caren	
Darrell Lee	dlee45@triad.rr.com
Linda Lee	lleess@triad.rr.com
Barney Bernstein	barneyb124@gmail.com
Keith Boswell	kboswell3@gmail.com
Ray Henderson	Rjhendepawling@yahoo.com
Jay Healy	jay.healy@carolinabeach.org
Sue Tolhurst	sftolhurst@gmail.com
Marian Malan	ceceliemars@yahoo.com
John Malan	
Sabrina Hart	shrhl120@aol.com
Ron Hart	
Mary Garthus	mary@wingsbeachwear.com
Lynn Barbee	lynn.barbee@carolinabeach.org
Bob Ponzoni	
Paul Fregosi	pfregosi@gpminvestments.com

Vince Losito	vlosito@outlook.com
JoDan Garza	jodan.garza@carolinabeach.com
Debbie Sullivan	debbiesullivan94@yahoo.com
Steve Coggins	scoggins@rountreelosee.com
Clyde Kelly	clyde@esinc.net
Kathy Shelton	sheltonk60@gmail.com
Paul Levy	thelevysatthebeach@gmail.com
Debbie Sikorski	debski62@comeast.net
Sonja Powell	sonja@suplap.com
Larry Powell	
Terri Little	littletm@live.com
Joe Faulkner	Joe@cegroupinc.com
Craig Wachter	journeys_into_wellness@hotmail.com
Charma McKnight	mcknightcl@hotmail.com
Julie Damron	jdamron4@gmail.com
Kristen Dunn	kristen@dunnbrokers.com
Catherine Robbins	cathrine.robbins@gmail.com
Dan Wilcox	dan@beachpc.com
David Denne	
Lynne Denne	lynnendwave2@att.net
Stephanie Sumner	sumners18@ymail.com
Scott Pate	cspate3@gmail.com
Fred Tolhurst	fred.tolhurst@dentons.com
Sherry Craig	sherrycraigcb@gmail.com
Amy Craig	amenmcraig1@gmail.com
Jim Ball	
Dan Bell	danbell1201@gmail.com
Shane Jones	blackpal@ec.rr.com
Mona Black	
Susan Barbee	sebarbee64@gmail.com
Karen Graybush	karengraybush@gmail.com
Greg Reynolds	greg.reynolds.architecture@gmail.com
Matt Giggey	giggeyrealestate@bellsouth.net
John Jakub	john@johnjakub.com



Jasmine McKee	islandgazette@aol.com
LeAnn Pierce	leann.pierce@carolinabeach.org

ND: 4831-5045-7593, v. 1

## TRC Comments

## Proximity

9.20.21

Questions

1. Submit any specific standards and/or conditions pertaining to the development project that you are offering for the Conditional Zoning?
2. What overall DOT improvements are going to be required (right in/right out, turning lane, driveway cuts, closing Jersey Mike's entrance, traffic stems etc.....)

Traffic

1. The revised scope of study was provided by KHA on September 16, 2021 to reflect the latest land use mix and access points discussed on September 15, 2021 with NC DOT and WMPO staff. These land uses do not match the conceptual site plan presented to TRC. Nor is the number of access points settled (six in the concept plan, possibly seven in the scope discussion). items need to be resolved before the scope of study can be approved.
2. NC DOT will likely comment upon the number of proposed access points onto Lake Park Blvd. Prior discussions limited this development to one (1) access point.
3. There is a signal warrant study referenced in email exchanges, possibly from July 2021. A copy of this study and its findings would support the proposed installation of traffic signal at Winner Ave/Lake Park Blvd.
4. Site plan comments (internal driveway stem length, placement and design of right turn lane for entering traffic) may come from the results of the TIA
5. NC DOT will not have a formal opinion or response to traffic questions before the TIA is completed and approved. This means the current schedule of P&Z and Town Council will take place w/o formal comment on the traffic from NCDOT/WMPO.
6. Scott James will follow up with NCDOT to learn the status of the signal warrant analysis for Winner Ave.

Further discussion

1. Install access drive to Winner Ave utilizing Town Property/relocate existing lift station or install bike path.
2. Install traffic & pedestrian signals with crosswalks at Winner and N Lake Park Ave intersection
3. Publix's light upgrade to protective green arrow and crosswalks
4. Next week have a meeting with our Utilities Director with proposed & existing utilities to discuss
  - a. Water/sewer lines
  - b. Approximate water & sewer usage

Show

1. Location/plan of loading spaces for commercial uses
2. Provide adequate fire access (Show turning radius for fire truck)
3. Drive aisle dimensions

4. Location and design of refuse facilities
5. Dimensions of the buildings
6. Tree protection plan/10' landscape buffer around the perimeter/landscape Islands
7. Location of the existing sedimentation box
8. Proposed Fire hydrants
9. Number of residential units
10. Sq. ft. of commercial space to meet 3,000 sq. ft. per acre
11. Show interconnectivity to the convenience store
12. Dimensions of parking spaces/parallel
13. Handicap parking spaces to meet NC Building Code/van accessible spaces
14. Correct vicinity map from 17<sup>th</sup> to 7<sup>th</sup> St

**ORDINANCE NO. \_\_\_\_\_**

The Town Council of the Town of Carolina Beach hereby amends the Zoning Ordinance, *Article 2 Zoning Districts and Map* to modify the zoning map as follows:

Approves a Conditional Zoning of 902, 1000, 1010 N. Lake Park Blvd for a mixed use commercial-residential (PARIDs R08814-003-013-000, R08814-003-015-000, R08818-002-013-000). Below are the conditions of approval and are hereby accepted. I/we acknowledge that the approval is dependent on the conditions, and failure to honor the conditions shall constitute a violation of this ordinance as well as grounds for permit revocation.

**Conditions**

1. Provide for an 8' multiuse path on Saint Joseph St and N. Lake Park Blvd. and through the site connecting to the public right of ways.
2. All lighting shall be aimed, located, designed, fitted, shielded and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
3. Install recommendations of the Traffic impact analysis.
4. Provide daily usage of water & sewer and make improvements as required by Public Utilities
5. Parking easement to be recorded for usage of the Jersey Mikes property.
6. Keep existing Live oaks as depicted on the site plan.
7. Prohibit short term rentals within the residential units.

**Requirements**

8. A stormwater plan must be submitted and approved prior to issuance of a building permit. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
9. Drainage plan must be submitted and approved prior to issuance of a building permit, and signed and sealed by a licensed engineer verifying that the system is properly installed and functioning prior to issuance of a certificate of occupancy.
10. Approval Letter from Division of Water Quality for Stormwater Permit before issuance of Building Permit.
11. Approval Letter from Division of Land Quality for Sedimentation and Erosion Control Permit before issuance of Building Permit.
12. Approval Letter from the Division of Water Quality for construction authorization for public water supply.
13. A driveway permit must be obtained from the NCDOT and Town of Carolina Beach prior to issuance of a building permit.
14. Sign permits must be obtained for any new signs located on the property.

- 15. Prior to issuance of a building permit lots must be combined to one parcel. Recombination plat must be approved prior to issuance of a building permit.
- 16. All structures shall be limited to 50' in height prior to issuance of a certificate of occupancy, certification by an engineer or architect must be submitted and approved.
- 17. Final project must be designed to provide the required 525 parking spaces and must comply with Article 7 of the Carolina Beach Zoning Ordinance.
- 18. Project must be constructed to meet fire code.
- 19. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
- 20. Type B buffer shall be provided and delineated along the perimeter of the property. Any waivers shall be delineated on the site plan.
- 21. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
- 22. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
- 23. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.

Adopted this 9<sup>th</sup> day of November 2021.

Applicant signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

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LeAnn Pierce, Mayor

Attest: \_\_\_\_\_

Kimberlee Ward, Town Clerk