

# CAROLINA BEACH

Planning and Zoning Meeting

Thursday, December 10, 2020 – 6:30 PM

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



---

## AGENDA

### CALL TO ORDER

### APPROVAL OF MINUTES

[Approval](#) of Meeting Minutes from November 12, 2020

### STAFF REPORT ON RECENT COUNCIL MEETINGS

### STAFF REPORT ON RECENT DEVELOPMENTS

### PUBLIC DISCUSSION

### DISCUSSION ITEMS

[Consider](#) a CUP for Amusement Ride Placements on Boardwalk Lots (PINs - 3130-54-2980, 3130-54-4836, 3130-55-4065, 3130-55-5014, 3130-54-5992, 3130-54-5877, 3130-54-5778, 3130-54-5870, and 3130-54-6839)

### NON-AGENDA ITEMS

### ADJOURNMENT



## AGENDA ITEM COVERSHEET

---

**PREPARED BY:** Miles Murphy, Senior Planner

**DEPARTMENT:** Planning

**MEETING:** Planning & Zoning – 10 DEC 2020

**SUBJECT:** Approval of Meeting Minutes from November 12, 2020

---

**BACKGROUND:**

Attached are the meeting minutes from the November P&Z meeting.

**ACTION REQUESTED:**

Review and recommend changes or approve as written.

**RECOMMENDED MOTION:**

# CAROLINA BEACH

Planning and Zoning Meeting

Thursday, November 12, 2020 – 6:30 PM

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



---

## MINUTES

### CALL TO ORDER

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

### PRESENT

Chairman Deb LeCompte  
Vice Chairman Wayne Rouse  
Commissioner Jeff Hogan  
Commissioner Melanie Boswell  
Commissioner John Ittu  
Commissioner Ethan Crouch  
Commissioner Todd Piper

### ALSO PRESENT

Planning Director Jeremy Hardison  
Senior Planner Miles Murphy

### APPROVAL OF MINUTES

1. Approval of Meeting Minutes from October 8, 2020

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

Motion made by Vice Chairman Rouse; Seconded by Commissioner Hogan

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

*Motion passes unanimously*

### STAFF REPORT ON RECENT COUNCIL MEETINGS

- Town Council and Other Updates
- Conditional Use Permit for day care at 105 Dow Road – Approved
- CAMA Oceanfront Setbacks – Workshop
- Conditional Use Permit for 202 Carolina Beach Avenue South – Approved
- Floating Homes Text Amendment – Approved
- Road Improvements – Workshop
- Conditional Zoning – Workshop
- Planned Unit Development/Multi-Family Update – Workshop

## STAFF REPORT ON RECENT DEVELOPMENTS

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

### Permitting

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

### Code Enforcement

- 13 complaints received
- 6 resolved

### Demolition

- 403 Risley Road
- 906 Canal Drive
- 405 Charlotte Avenue
- 505 Lewis Drive
- 109 Cape Fear Boulevard
- 522 North 7<sup>th</sup> Street
- 206 Alabama Avenue
- 3 Carolina Beach Avenue South
- 209 Carolina Beach Avenue North

### New Business

- Island Massage – 501 North Lake Park Boulevard

### Coming Up

- Text amendment: sign ordinance overhaul
- Text amendment: home occupations to allow dog grooming
- Conditional Use Permit: amusement rides modification
- Chapter 160D: definitions and board procedural requirements

## PUBLIC DISCUSSION

None

## DISCUSSION ITEMS

2. Consider a Conditional Use Permit for a 5-Unit Residential Planned Unit Development to be located at 216 Spartanburg Avenue (PIN - 3130-32-7671)  
Applicant: Laurel Companies LLC.

The following individuals were sworn in: Miles Murphy, Jeremy Hardison, Ned Barnes, Tammy Marr, Mary Maroudis, Tim Barker, and Mason Manhertz.

Mr. Murphy: All right. Tonight we have a Conditional Use Permit for 216 Spartanburg Avenue for a 5-

unit residential Planned Unit Development. For those of you that are not familiar, this is 216 Spartanburg, as you can see here located snugly within the R-1 zone with the Mixed Use Neighborhood Business to the east and eventually getting to the R-3 to the west and Carolina Sands obviously to the south but a couple streets down. The applicant is Laurel Companies. So just to give you a little bit of background, back in 2005 this entire parcel fronting Third Street between Spartanburg and Sumter Avenue was given a Conditional Use Permit approval for 3 triplex units and 1 duplex unit of properties there. As we all know, the 2 on the north side of the parcel there were built, but they, I believe Jeremy said they ran out of finances during that time period and did not finish the other 2 and inevitably ended up selling the property. And in 2013, a Conditional Use Permit was approved for two 2-unit townhomes and one single-unit townhome on the same property with a very similar design, though the permit at the time requested a reduction in the size setback, which Town Council at that point was inclined to give them. So they had 2 and a half feet more space than most projects coming in now would have to deal with that standard corner setback. However, given you all's opinions as well as Town Council's opinions in the past, we know that is not something that is seen as more favorably these days. We love our landscape buffers and as much setbacks as we can get. So residential Planned Unit Developments in R-1 are by conditional use. R-1 standards are single- and two-family developments. Those triplexes would no longer be permitted. It's only single- and two-family now, but back in 2005 when that was done triplexes were still permitted in the R-1 district. The minimum lot size is 5,000 square feet with standard setbacks for R-1 15 units per acre and the maximum height limit and maximum lot coverage of 40 percent. Just to give you an idea, this is Spartanburg from the first photo is from Spartanburg. The second photo is from 3<sup>rd</sup> Street. Then directly across the street an adjacent property will be 813 South 3<sup>rd</sup> Street, 300 Spartanburg, 301 Spartanburg, as well as 214 Spartanburg, 217 Spartanburg, and 219 Spartanburg, sort of round out the little corners surrounding there. And so this is the site plan coming in front of you today. As was said, it is two 2-unit townhomes and one single-unit townhome for a total of 5 units being placed on 216 Spartanburg. The required landscaping buffer for this unit density is 5 feet, which they have shown around the property. They have required setbacks of 20 feet in front, 7 and a half on the side, 12 and a half on the corner side, and 10 feet in the rear. And the acreage standards are 15 units per acre as we said, and given the size of the property they can fit 5 units and they are asking to fit 5 units. And to emphasize why they're coming in front of you for this Conditional Use Permit is that if this lot were slightly bigger or slightly smaller they would be limited to the standard 2-unit maximum for an R-1 lot, but they have about 2 and a half lots, so you get into that half a structure, hence 5 instead of 6 or 5 instead of 4. So just taking advantage in line with the density because they can't divide the lot into 3 based on the minimum standards for the R-1 zoning district. In regards to the seven specific standards, ingress and egress will be established via 3<sup>rd</sup> Street. Town staff has requested a 4-foot-wide sidewalk to be installed parallel to the 3<sup>rd</sup> Street and Spartanburg buffer. When we were looking at the Bike and Pedestrian Plan, 3<sup>rd</sup> Street, or, sorry, Spartanburg is not considered part of the Bike and Pedestrian Plan, and it's entirely at your discretion as to whether we want to see sidewalks on both the streets or not. Obviously we as staff are always trying to get as many as we can to eventually create safe walking and biking conditions, but this is not something that falls in directly in line with the plan. Parking will be contained on the property, as you saw in the site plan. All units are proposed to be 3 bedrooms, and they have provided at least minimum of 3 parking spaces for each unit. Trash will be provided in a standard residential manner. No utility upgrades are proposed. As we said, a 5-foot landscaping buffer is required. No signage is proposed. Any sign would have to go through the standard zoning approval, and they are below their maximum lot coverage and above their minimum open space requirements. The density falls within

the standard R-1, sorry, that's a typo there, R-1 density setback requirements, and the proposed structures follow the setbacks. The CUP meets all the required specific conditions and specifications, and the proposed structures will conform with the neighboring properties in being that it is surrounded in an R-1 single 2-unit and the case of the neighbor triplex unit. In the future Land Use Plan for the area is, that is the wrong language there. I apologize. I can pull that up real quickly and read that all off to you. I very much apologize about that.

Mr. Hardison: It is for a single-family and two-family dwellings for the area.

Mr. Murphy: For the record, let's put that in front of you so we don't have any confusing of confusion over that. I do apologize. That's the wrong figure. When we pull up here it's just that land classification map so you can see. It's the residential ones, so down here is what we are discussing, and that will take a second to load. But that overall that's the summary of the presentation in front of you. Staff met with through the process with the Technical Review Committee and went over the project and made a bunch of adjustments based on their initial design, meet setbacks, and lots and landscaping requirements, and our only recommendation is the inclusion of sidewalks. Otherwise staff approves of the project the way it is submitted, and the rest will be up to you all, and I will get that land classification up in a moment.

Chairman LeCompte: All right. At this time, we'll open the public hearing. All in favor?

**Commission: Aye (motion passes unanimously).**

Chairman LeCompte: The applicant may present his evidence and legal arguments in support of the request.

Mr. Barnes: Madam Chairman, Commissioners, Ned Barnes. I reside at 814 Carolina Beach Avenue North. I'm here on behalf of the applicant. As not to again completely repeat what Miles states, as far as the seven specific conditions, ingress/egress has been met by the applicant. There is absolutely no need for any off-street parking. There's adequate parking at the property for the units to be built there. The refuse will be identical to any residential, will be the normal trash pickup by the Town of Carolina Beach. Utilities will be provided by the Town of Carolina Beach with your Duke Energy for providing electricity. No issues there. The client has met all requests by staff, TRC related to side setbacks, relating to the buffer, and also I would I would also like to point out that they are actually exceeding the minimum requirement for setbacks. They are entitled to built up to 50 feet. They are going below the 50 feet that they provided for in code. When you look at the surrounding properties north, south, east, and west, they are all residential, some single-family, some multi-family, so it fits right in with the community, so it should have no impact whatsoever on any values. It certainly under the general conditions is not creating any condition of harmful to the general public, and it certainly should not in any way impede the value of the properties that surround the structure built by the client. I would contend that that, as was stated earlier by Miles, this project is almost identical but for that being 8 units, this being 5 units, for what we did at 202 Hamlet. And again, we're requesting that or contending that we met all the requirements required by staff and by TRC, and we hope that you would approve it. I'll take any questions. My client is here and the engineer is here if you have any questions about the specific project.

Chairman LeCompte: OK. Does anyone have any questions?

Commissioner Ittu: Mr. Barnes, I thought, I believe I read in the materials that we received that if this is approved and built it will have an HOA as well?

Mr. Barnes: Correct.

Commissioner Ittu: OK.

Chairman LeCompte: OK. Any other questions?

Commissioner Crouch: Does the client intend to comply with staff's request to provide sidewalks?

Mr. Barnes: Absolutely.

Commissioner Crouch: For both Spartanburg and 3<sup>rd</sup> Street?

Mr. Barnes: Correct.

Chairman LeCompte: Any other questions?

Commissioner Boswell: No, I was just the same about the sidewalks is all I had.

Chairman LeCompte: OK. All right. Thank you, Mr. Barnes. All right, so now we'll open discussion. First the application, would you like to get up and say, would you like to speak at all? OK. All right. Thank you. OK. All right. Thank you. We'll reserve that right. So we'll call our first witness. Come up. Please state your name and address, please, for the record.

Ms. Marr: Name is Tammy Marr, and I live at 214 Spartanburg Avenue. I have some copies of what I'm going to be presenting. Is it OK if I pass them out to the board?

Chairman LeCompte: Yes.

Ms. Marr: So you can follow along. Let me put this on. Hard to speak with it.

Vice Chairman Rouse: If you'll hand me I'll pass them down. Help you out. Yep.

Ms. Marr: And since this fogs up my glasses, I hope you don't mind me not wearing it while I'm speaking but. As I said, my name is Tammy Marr. My husband and I bought 214 Spartanburg Avenue a year and a half ago. Our property abuts the proposed development on the eastern boundary. The potential for 5 townhomes to be built next to us was never disclosed during our due diligence or closing. Our understanding is that the previously approved CUP is null and void since the developer never built those townhomes and the property was sold. We learned about the newly proposed CUP last week from our neighbors. In fact, I don't know why, but we never got a letter, but my neighbor

was nice enough to take a picture of hers and text it to me, and that's Patty, who's on the corner opposite of me. She could not be here tonight because of COVID. She's very concerned about being out in public. She wrote a letter and sent it to me and asked me to read it to you when I'm done if that's all right with you. OK. I have copies of that too that I'll pass out to you. I am here today to explain why the proposed design of these units being oriented east to west with access to South 3<sup>rd</sup> Street will materially endanger the public's health and safety due to traffic blind spots, sight line issues, fire concerns, and water drainage problems. The high-density build encroaches on our home and will substantially injure the value of our property. This is due to the loss of privacy, view obstruction, increased noise, and increased odors. Also the high-density build is not in harmony with the area, which is R-1 zone and is mostly single-family homes on Spartanburg Avenue. Now if you'll take out the pictures that I sent you, I also included in here, you'll see the lot that it's being built on, 216 Spartanburg Avenue, I am right next to it. My property totally abuts the whole length of that 140-foot lot. OK. What you are proposing or the builder is proposing is that the units you're gonna be building are going east to west. That's a concern for us, and I will cite lots of reasons why as I go through this, but the biggest problems are the 12-and-a half-foot setback and the fact that it's only gonna be 10 feet from our property line and all the things that come with it encroaching on our property. So our first issue is that this high-density build will materially endanger the safety of pedestrians and drivers. Line of sight will be greatly diminished when a vehicle backs out of our driveway. A combination of the rear of the fifth unit and our assumption is that even though they're up on stilts, the back of the fifth unit is where there will be storage, elevators, steps, all that kind of stuff, and then that will be at the back behind the parking spaces. And that's why that fifth unit that's being built closest to Spartanburg, our assumption is that when we're backing out of the driveway, that is going to be a blockage, that we will not be able to see well. Also, there's the landscaping that is 5 feet beyond that, so you have a couple things that are causing blind spots as you go to back out. My husband's truck, for example, is a large SUV. It's 22 feet long, and from the driver's seat he will probably be a couple feet into the road before he has a clear line of sight of cars coming, especially from the left-turn direction. This one of our biggest concerns is that this will endanger the many pedestrians that walk to the beach using the road because there is no sidewalks on Spartanburg Avenue. And I don't mean just a few. In the summertime, there are a ton of pedestrians that go up and down that street because the access to the beach is at the end of Spartanburg. So you have everybody funneling in from the sides and going right down there, and they walk across the road. All right. Our concern is that, you know, when we're backing out, when our renters, 'cause we rent this property out as well, when they're backing out, if they can't see, they are endangering people that are walking along. And it's not just pedestrians walking. There's a lot of bikes, skateboards, and scooters that also go up and down that street. There are many construction trucks that use Spartanburg Avenue as a cut-through from Dow to Highway 421, and their diminished ability to see a vehicle backing out of our driveway could result in a bad accident. I mean, I can just see them swerving because they see us coming out 'cause we didn't see them, and then they could hit somebody. It's it's a real concern for us. Since our home is also a vacation rental, this is a dangerous situation and a serious liability for us in the community, and I really want you to pay attention to that because that 12-and-a half-foot setback causes a lot of these issues. If it was a 20-foot setback, which the rest of Spartanburg is, you wouldn't have these line of sight problems. My next point is that the high-density build will materially endanger the safety of the area, and I'm specifically talking about grills. Grills are usually located on the back-floor patio. It doesn't really show on the plat where they're going to put patios. My assumption is that they're gonna put it underneath the deck. That's usually where you put a patio, and most people put their grills on the back of the patio. They



don't put it right up next to the building. So with it only being 10 feet, the grills will most likely be within that 10-foot setback. There's also vegetation. I wish I could say that vegetation doesn't die in Carolina Beach, but most of the bushes we planted in our year-and-a-half-old home all died because we didn't have enough water going through the sprinkler system, so then they became like sticks. So our concern is that as somebody is using the grill and there is some kind of a grease fire or propane accident, that easily the vegetation could catch on fire, our fence could catch on fire, and our fence, if you looked at that picture that I gave you, our fence puts directly to the stairs for the air-conditioning unit and directly to our house. The next area I want to talk about is water drainage. We have the wetlands right behind us, and currently right now whenever there is rain, it basically runs this way. Right here is Spartanburg. Here's 3<sup>rd</sup>. Anytime there is rain the natural flow of the water is across the back of our property and into the wetlands. It's just naturally gonna flow that way. And we watched it about a month ago when they came and they purged the fire hydrant that was there on the corner, and that's exactly what happened. The water went right down that property line right along our fence into the backyard and into the wetlands. So we have concern that the rain water will do that, and you are now putting a, you're filling up a lot of that land, OK. So but it's not going to soak into the ground. It's going to be an issue, so we want you to really pay attention to water drainage as you look at this proposal. Having 10 HVAC units, and if you noticed on that plan it shows that the HVAC units are on the back of these because they're so close together they can't fit them on the sides. So our assumption is there's at least 5, maybe 10, HVAC units in that 10-foot space on the back. And the reason why I say 10 is because usually they put one per level, so that you have a zone for each level. I don't really know what the builder's planning, whether it's 5 or 10, but our assumption is 10 units. So you're gonna have the condensation draining out of these air conditioners into that 10-foot property. It's already rather damp. It's going to be very wet, and it is gonna cause a lot of issues because water attracts termites, carpenter ants, and it will rot our fence eventually. Allowing the builder to not install roof gutters or to install them with gutter drains out draining into the back of the townhomes will actually result in flooding of our property. This will undermine the retention wall in our backyard and increase the water volume in the wetlands, flooding our backyard and our neighbor's house, 212 Spartanburg, which is already very wet in the backyard. On the drawing, it shows proposed swales. We feel that the proposed swales will not ensure consistent and permanent drainage towards South 3<sup>rd</sup> Street between storms, and over time the swales will erode, resulting in the water returning to the natural drainage path, which is across our property and towards the wetlands. We suggest an engineering design where all roofs have gutters which drain into barren water pipes that force the water to connect directly the existing storm pipe that's on South 3<sup>rd</sup> Street. Number 4, we feel that the high-density build will substantially injure the value of our property. There's a couple of reasons. I'm gonna go through the first one being a loss of privacy. Having dwellings oriented east to west with windows and backs looking directly into the front, side, and backyard of our home eliminates any sense of privacy that a single-family house in a R-1 zoned area of Carolina Beach should be afforded by this planning board. We added \$80,000 worth of improvements to our outdoor space. I have included pictures so you will have a good understanding of what we added to this house. The first one is the balconies. The builder put 3 balconies on for us that are beautiful outdoor spaces, and one of our concerns is the reason why I put this second picture in is that this building that only has the 12-and-a-half-foot setback, that's about the view that they're gonna have from their balconies is straight at the front of our house. So as they're out on their balconies, they're gonna be looking directly at our house. The fourth and fifth unit will be looking directly at the back of our house. Most likely the third unit will be looking catty-corner at the back of our house. And you can see we spent a lot of money on this. We did a retention wall, we

did a fence, we put in a cement patio with a swim spa, landscaping with palm trees, and about a month ago we put in AstroTurf. It is absolutely gorgeous. We love it. Our renters love it. We get a lot of repeat renters because it's so beautiful, and people love the fact that it is a nice, beautiful, private space for them to come for vacation. Having 40 to 50 people hanging out on the decks in the mornings and evenings will create a very unpleasant fish-bowl-like experience for all of us. The next point, I'm gonna talk about noise levels and how that will impact our property value. Having two air-conditioning units per townhouse located on the back of the townhomes instead of on the sides means that we will see all of them, and they will be generating noise as they turn on, operate, and turn off. Also HVAC units age, and that usually means there's an increase in noise with planking and squeaking. I wish I could say everybody got their units maintained every year, but usually they don't. It's not until they break that they have someone come in. So adding the HVAC noise to noise generated by the people means that we will rarely have any quiet moments on our property. Also want to discuss odors. I don't know 'cause I can't tell from the plan that was submitted, but our assumption is that the dryers will be vented out of the back of the townhomes. Having up to 5 of these running on Saturdays when rentals are cleaned and turned over will make us feel like we're living next to a laundromat. Also we have a concern about cigar and cigarette smoke. That's usually done out on the decks, which are going to be only 10 feet from our house, and there is no way for me to put anything up that can block those odors from coming straight into our balcony if someone is out there smoking. I can't build a fence high enough. I can't plant any landscaping that's gonna grow tall enough to create a barrier, and they're only 10 feet away. If someone's out there smoking, it's like I'm smelling it because 10 feet isn't very far. All right. My next point is that this high-density build will substantially injure the value of our property. A setback of 20 feet ensures that all homes built on Spartanburg Avenue have unobstructed views to the east and to the west. Based on the high-density build with a 12-and-a-half-foot setback, when we walk through our sliding glass doors on our front balcony, we'll be looking at the entire back side of unit 5, with 2 balconies of people looking back at us. Orienting these townhomes from east to west condenses all of the backs of a property, which is their decks, their patios, AC units, the noise, the odors, and the lights directly up against our entire western property line. This will greatly reduce our ability to rent our home to vacationers and will eliminate repeat renters. We estimate the loss of rental revenue to be \$25,000 per year. Having a high-density build located next to our home will make it quite difficult to sell. We estimate the loss of revenue to be 200, excuse me, \$150,000 a year. Now, I reached out to our real estate agent because I thought it would be good to help substantiate these values so you don't think I'm just taking numbers out of the air. Robbie Robinson is the Realtor that sold the home to us. He is a broker in the area. He has worked in this area for many, many years, and he has written a letter, and I'm going to pass to you. I'm not gonna read it to you. You can read it, but basically he is my expert witness. You know, the one I could come up with in the short amount of time I had that would substantiate what I have written here. As an agent, he feels it will be very difficult to sell the home that we own for the value it's worth today if these buildings go up. He feels that when he brings people in, they will look at the property and say, "Wow, that's a really nice home, but I don't want to buy a house, a single-family home and live next to a high-density build with all these people looking at me invading my privacy." So he feels that it will take a lot longer to sell and it will sell for a lot less than what it is worth. In conclusion, we strongly encourage the planning board not to approve the CUP the way it is proposed. We would prefer if the builder construct two single-family homes or at worst case two duplexes and that they be oriented north to south with access from Spartanburg Avenue. This will result in a 20-foot setback, which will largely improve the safety, property devaluation, and people conflict issues that we have discussed. The decks, grills, HVACs, and dryer vents will not be condensed

into a narrow strip of land abutting our fence and house. Instead the 140-foot-wide-parcel would provide these homes or duplexes the large backyards, and there would actually be a buffer space between these homes and the townhomes that are already there. Only one structure will be abutting our property, and many of the problems that we have presented would go away. This development design would comply with the R-1 zoning and be in harmony with the other single-family homes on Spartanburg Avenue. This would still provide the builder with a strong profit potential and should not impact the current owner's ability to sell the lot. We would also like a variance to put in place on this lot so future developers must build on this lot with the north to south orientation access from Spartanburg Avenue and a mandatory setback of 20 feet. Thank you for your time. I would like to now read this letter from Patty, who is my neighbor.

Commissioner Hogan: And what's her address?

Ms. Marr: She's catty-corner from us. Miles, you showed, when you were showing all the homes. She didn't put her address on here. She's in the yellow house on the corner.

Chairman LeCompte: 301 Spartanburg.

Ms. Marr: Oh, does she have it on there? OK, sorry. Thank you so much. All right. She sent it to me as I was about to leave my house this morning. I live in Charlotte and drove out here for this meeting, so I apologize I didn't remember that her address is in here. All right. My name is Patty Cattano, and my husband and I live at 301 Spartanburg Avenue, Carolina Beach. Due to COVID-19 I am unable to attend the public meeting regarding planning and rezoning of property close to our home. I have asked my neighbor, Tammy Marr, please read this letter to you on my behalf so that my voice may be heard as it relates to this proposal. My opinion, the proposed 5-unit project is not a wise move on the part of the Town. I'm requesting that you consider denial of this request and do not rezone and allow a 5-unit project on the corner of Spartanburg and 3<sup>rd</sup>. My concerns are as follows. We have been homeowners in Carolina Beach since 2006 and have been at our current location for 3 years. Since we've moved to Spartanburg, we've had tremendous problems with flooding. All the new homes around us have been allowed to be built up higher than a lot of the older homes like mine. This has caused water to flood my property and come into my downstairs. Sewage has even come into my downstairs, which is a health hazard. Most of this end of Spartanburg Avenue has not had this same problem. Oh, has had this same problem. Excuse me. Didn't read that right. Most of this end of Spartanburg Avenue has had this same problem. This is a heavy flooding area. Some of the properties have had so much damage that residents are in danger of losing their homes. This, of course, occurred during Hurricane Florence. However, my biggest concern is that it happens with heavy rains and not just hurricanes. We spent \$10,500 on front drains around our house to try to help but with no success as we realize the drains across the street cannot handle the mass water. I immediately contacted the Town Manager by email and cc'ed Congresswoman Leann Pierce on my email. I sent multiple pictures of the concerns and problems and requested the Town's help. For over a year I dealt with it. I was constantly sending the emails with pictures. I am sure these are public record. Finally, this past spring the Town came through and made changes to the drains, which has helped a great deal. The Town has promised to work on the other side as well, so on Spartanburg that the side I am on, nothing was done, but across the street from me, which is where Patty is, is where you guys did improve the drainage this summer. This will help with the flooding of the land beside my garage, which comes from the homes on Greenville

Avenue, located behind me behind my house. With all this, we are not totally out of the woods yet but making progress. Putting one house or even 2 townhomes built up in that corner will cause water issues since it is already a troubling water area. Putting 5 more would be a disaster. I do not believe the area can handle this. When we built that area up, the water must, when you build that area up, the water must go somewhere. My second concern is traffic. The similar townhomes that will be beside the projected area often fill with multiple cars during the summer. They are so overloaded that they are parking in the vacant proposed lot and on 3<sup>rd</sup> Street. I realize that we cannot stop people from having guests or renting these homes in the summer, but if you allow 5 more units and the same thing occurs, cars will lined up and down Spartanburg Avenue. It appears that Spartanburg is one of the most traveled streets on the islands. The street is narrow and already dangerous to pedestrians, cars, and pets. Large trucks travel this road constantly, and when cars are parked on the side they swing into our yards, damaging our properties. This will only get worse if you allow such a huge project. One or two units is the max this road can handle. There are certainly other valid concerns, but these are my two main ones, and as you are contemplating this decision, I wanted to make sure I'm on the record with the issues. I am all for progress and building on our island, but not at the expense of the older properties in the area. Whatever is eventually constructed on that lot, water and traffic must be addressed. I ask that you please consider all of your homeowners in Carolina Beach and vote to keep the current zone. Thank you in advance. Patty. Thank you all for your time. Any questions?

Chairman LeCompte: Does anyone have any questions?

Vice Chairman Rouse: I've got a quick question, ma'am.

Ms. Marr: Yes.

Vice Chairman Rouse: On your letter, I think I read the whole thing, as you, along with you. You said the potential for 5 townhouses to be built next to us was never disclosed during our due diligence.

Ms. Marr: Correct.

Vice Chairman Rouse: Or closing. Who, who, who in your opinion, should have discussed that with you?

Ms. Marr: Well, I would have thought that.

Vice Chairman Rouse: I mean, that's not a trick question.

Ms. Marr: The person selling it, selling the home to us.

Vice Chairman Rouse: The real estate agent?

Ms. Marr: Should've disclosed that.

Vice Chairman Rouse: The real estate agent?

Ms. Marr: Also the builder that built the home.

Vice Chairman Rouse: I just wanted to.

Ms. Marr: That's who I would've thought would have told me that there had been something like that previously.

Vice Chairman Rouse: OK. Were you made aware?

Ms. Marr: In fact, I remember asking the builder about the lot and he goes, "I don't know anything about it. I don't know who owns it."

Vice Chairman Rouse: Were you made aware of what the zoning was in that area?

Ms. Marr: R-1, single-family and also duplexes.

Vice Chairman Rouse: OK.

Ms. Marr: Not 5 units.

Vice Chairman Rouse: Thank you.

Chairman LeCompte: Thank you.

Ms. Marr: Any other questions? Thank you all for your time.

Chairman LeCompte: Thank you.

Ms. Marr: I appreciate it. Sorry I was a little long-winded.

Chairman LeCompte: That's OK. Would anyone else like to speak? You can come up, please. State your name and address for the record, please.

Ms. Maroudis: May I take this off? Thank you. Hi, I'm Mary Maroudis, and we're at 315 Spartanburg Avenue, my husband and I. We've been here 13 years, but we've owned property for over 50 years here, along with the Poulos family on Spartanburg Avenue. So it's been a delight to see how great Carolina Beach has come along. I remember years ago coming down here saying we wouldn't want to build anything here, and now it's just beautiful, and I'd love to keep it that way. My husband just loves the home, and so do I. We're originally from Ohio. My concerns are, I'm just backing the neighbors. We really did not know this was going to happen. I just spoke with Mr. Miles. I did not see the sign. We did not receive any notification, so we are not really prepared to even look at some of these things, but I was surprised on Saturday to see the sign and wondered what was going on. With that in mind, this is R-1. I know you've had tried, they do have those big condos up there, but it's my understanding that was not supposed to ever happen. That it was supposed to go back to R-1. So this is our neighborhood. We'd like to keep it residential. There is a lot of traffic on Spartanburg. I just echo those things that Ms.

Marr said and our neighbor Pat Cattano. Also our cousin John Poulos couldn't be here tonight. I can't speak for him, but he abuts right behind Ms. Marr, and it will affect his property values, and they've been there forever and ever, too. They all bought back in the 1960s, the Poulos family, and then the Maroudis family. So it's just concerns me that to me I feel rushed that we were rushed upon. Again, the sign I think it fell down or something I heard from the neighbors. We did not know until Saturday when I, I walk this neighborhood all the time, almost every morning. I'm a teacher and a nurse, so I've seen a lot of the neighborhood and walked that corner. I do notice a lot of flooding. Seems like a lot of water ponding on 3<sup>rd</sup> Avenue and Spartanburg when it rains. I've noticed that the homes that they're gonna build on 3<sup>rd</sup> back in the swamp area, that I call it, and I was surprised that those were built, and I noticed some of the neighbors, and this is just my understandings of the neighbors. They feel like that there's a lot of runoff from those homes that were built there. I also noticed in the neighborhood, I don't walk that way that much, but 6<sup>th</sup> and Hamlet, those units that were put in there, they're very close together, and I feel like they've detracted from our beautiful Carolina Beach area. You know, we have such gorgeous things going on, like Seagrove and this whole area below the lake, and I'd just like to see it keep stay that way. There is a lot of traffic on Spartanburg and a lot of fast traffic. I know our neighbors tried to slow it down. I think everybody knows Bev Lem and Bill West, and they tried to slow it down because there are some children in our neighborhood, so we'd love to see it remain residential. But most of all, but we felt, I felt, my husband and I felt rushed about even finding out about this, and we haven't had time to look at it, but we do support our neighbors and would like to keep it. Let's make it look like Wrightsville Beach, not, you know, jammed up and that type of thing with multi-family dwellings. I think we've got some real hot potential here, and I'd like to keep it that way. I'd also also like to get more involved with the community now that I got to be here. So, all right. Any questions?

Chairman LeCompte: Anyone have any questions?

Ms. Maroudis: Thank you.

Chairman LeCompte: Questions? Thank you. OK, Mr. Barnes, you're welcome to come back up.

Mr. Barnes: I feel that there's there's some misconceptions here. As I hear them speaking, and I understand their concerns, but everything I'm hearing deals with, and Jeremy, correct me if I'm wrong, would be text amendments to the zoning ordinances for Carolina Beach. Again, as I stated earlier, this plan has been submitted. It has met every requirement, every zoning requirement that the Town has for setbacks. It's met all the zoning requirements, and I'd I'd like to also point out one other thing or second thing. I think what a lot of the folks in the general public don't know is that long before we get here and long before we get to Town Council, there's Technical Review Committee, and that's when the builder, the proposed builder and the Planning Department, the Police Department, the Utility Department, the Fire Department, all get together, look at the project and everyone whose whose job is to work for the citizens of Carolina Beach, look at the project and present their comments as to what they feel should be changed, if anything, related to the project. TRC have looked at this project. They have accepted everyone recommendation they've made. They've met all the side setback requirements, all the all the density requirements. They're, as I say, building not as high as they're allowed to build, and again, it's identical, I would contend, to 202 Hamlet, except that was an 8-unit project. This is a 5-unit project. It meets all the same criteria, which was passed unanimously by the

Planning Commission and passed this past Tuesday by Town Council. I would also point out and one of the issues that Mr. Rouse raised about the zoning. What everyone who takes who accepts a deed, I've got Ms. Maroudis' deed here. I just happened to pull the deeds to the surrounding properties, Ms. Cattano's deed. Both of those deeds state that they take Title VII to all zoning as it relates to the property they're buying. So everyone has the right, it's all public record, to come into Town Hall and say I'm buying this house. There's vacant land beside me. What could be done with that land? They have every right to ask and make all the inquiries they want. So again, it's not hidden. There's nothing under the table. It's all there, public record. So again, I would contend as they've met all the requirements of the Town that it should be approved by the Commission. Thank you.

Chairman LeCompte: Thank you, Mr. Barnes. Would anyone else like to come up and address the Commission?

Mr. Barker: Just a couple clarifications, I guess. One thing is.

Chairman LeCompte: I need you to state your name and address for the record, please.

Mr. Barker: Oh, I'm sorry. I'm I'm Tim Barker with Laurel Homes. They're building to the property line. The rear the rear property line is 25 feet. The 10-foot setback is the dash line up there, so we're actually 15 feet. We pulled those units completely forward. We're we're on the front setback because we understand that the back, you know, is gonna be the backyard, so we're 15 feet off the rear setback. And these units are only gonna be 1,900 square feet heated, so it'll be one AC unit per unit per unit. So there there 5 there is correct. There won't be two. And I would imagine the laundry rooms will actually vent left to right because the laundry rooms are on the side on exterior walls, not on the back of the house.

Chairman LeCompte: You'll need to just hang on just a second and let him finish.

Mr. Barker: That was it.

Chairman LeCompte: OK.

Mr. Barker: They'll be decks on the back. There's also be decks on the front, so there will be, and there'll actually be a rooftop deck as well. Actually the deck is in in in the dash line area. It's included in that, so the 25 feet is the 25 feet.

Commissioner Hogan: So you're saying that with the decks, you'll have a 25-foot setback from her property line?

Mr. Barker: Yes.

Commissioner Boswell: And all the landscape and buffers are met, and so where her property line is like up against her fence, you're gonna have the landscaping?

Mr. Barker: Oh, absolutely, as it's as it's drawn here. Another clarification point, and I'm new to this,

but this isn't a rezoning request. This is just a request to put 5 units that's already zoned for 5 units. I mean, this this property, we're not rezoning it. We're just actually getting the, we're just doing the 5 units that that zoning already allows.

Chairman LeCompte: Miles, can you?

Mr. Barker: I think we've been told several times.

Commissioner Boswell: Can you clarify that, Miles?

Chairman LeCompte: Can you, hold on, can, Miles, can I get you to clarify that this is not rezoning request?

Mr. Murphy: You're not speaking out of turn. It's not a rezoning. This the only reason they're coming in front of you is because they're going for greater unit density than is required by right. By right, each property in R-1 can build a maximum of 2 units, as it's single- and two-family. As I said in my presentation, they have approximately 2 and a half lots and as a result are seeking 5 units to match the R-1 density, excuse me, requirement for their acreage.

Commissioner Piper: So I've got a couple specific questions on that. So how many lots do they have? Do you have 1 lot, or do you have 2 lots, or do you have 4 lots?

Mr. Murphy: They have, currently under contract they have 1 lot consisting of what could be divided into 2 and a half lots if they were able to do that. I'm framing it in the size of the standard 5,000-square-foot R-1 parcel.

Commissioner Piper: So but you can't have half a lot?

Mr. Murphy: Exactly.

Commissioner Piper: So you could have 2 lots?

Mr. Murphy: They could divide this down to the 2 lots and put 4 total units.

Commissioner Piper: 4 units?

Mr. Murphy: Yes. By right with no hearing whatsoever.

Commissioner Piper: So by right they could have 4 units?

Mr. Murphy: Yes, sir.

Commissioner Piper: So they're asking to put 5 units because they have the square footage that would be equal to essentially, they would have enough square footage to put 5 units based on the square footage.



Mr. Murphy: Yes, sir, but they can't divide it because you need a full 5,000 square feet as opposed to roughly 2,500 for that half.

Commissioner Piper: OK. So they could only put 4? I can't keep track.

Mr. Murphy: 4 if they divided it and went by right. Yes, sir.

Chairman LeCompte: OK, let's get back on track because, Commissioners, we need to save this conversation for when we're done with open discussion.

Mr. Murphy: Thank you.

Chairman LeCompte: All right. So does anyone have anymore questions for Tim? OK. Thank you, Tim. All right. Would anyone else like to speak on this matter? Yes, ma'am. You can come back up.

Ms. Maroudis: Do I go ahead and state my name again?

Chairman LeCompte: No, we know who you are now.

Ms. Maroudis: I think that's where our question is coming in. We want the density and the zoning in keeping the spirit of the neighborhood. Again, we've been down here and had property here a long time, and we'd love to see it look nice. We really don't like the things at Hamlet and 6<sup>th</sup>. I don't think it looks that nice. I we can't really tell what's going on again, so all those questions are coming up since Saturday and just trying to keep the neighborhood looking good. We live pretty far away, so it really was beyond me to even come today, but I know the neighbors, a lot of the neighbors were concerned and did not get notices. The sign did fall down. Again, I walk there almost every day and I did not see the sign till Saturday, and we get the paper, but I've really been so busy I haven't read the paper 'cause I work full-time. Thank you very much. I hope you let us have some time to really look at this, not rush it through. I feel like we're being rushed. I feel like it's a rush job. We need to hurry up and get it done, almost like keep it secret, hurry up.

Chairman LeCompte: Well, just for your for your peace of mind, this doesn't end here with us. It's a whole month until the Council meeting

Ms. Maroudis: Yeah, I know it's a whole month, but I also remember when we built that we were only given like 6 weeks and there was a zoning change and we almost had to change a bunch of plans. Jerry may remember this, but we got it through. My husband had to drive down here, so that's the only house we've ever built, so we're not, so thank you.

Chairman LeCompte: All right. Would anyone else like to speak on this matter? Thank you, Ned.

Mr. Barnes: Again, I understand what's being stated here, but as I say, and I would ask Miles and Jeremy to correct me if I'm wrong, it seems to me that what if they're what they're proposing would be a complete text amendment to the zoning ordinance in Carolina Beach. We again, I reiterate, we've

met every requirement placed on them by the Town. It's zoned for the what they're proposing to build here. They more than more than met all the side setbacks that were required by the Town. They agreed to do all the sidewalks, all the buffering. Everything the Town is requesting to do, everything the TRC is requesting to do, they've agreed to do.

Chairman LeCompte: Right. Thank you, Ned. All right. Any other comments? All right. At this time, we're gonna close the public discussion. All in favor?

**Commission: Aye (motion passes unanimously).**

Mr. Hardison: Chairman Commissioner, if I may, just for clarification, the 2013 Conditional Use Permit, which was approved but because construction did not start it did expire in 2015, so there has not been any active approvals for this property since 2015.

Chairman LeCompte: OK.

Mr. Hardison: And also you can hear written items for people who are not here who in present, but I just would be cautious basing any decision just solely on written comments. You can address them to the applicant and say can you address safety, landscaping, drainage, could he improve the project upon that, that would be a fair question, but to solely base a decision off those comments, I would just caution you.

Chairman LeCompte: OK, so ready to begin our discussion? Who'd like to go first?

Vice Chairman Rouse: I'd like to ask Miles, Mr. Murphy, a few questions. You're handling this one? OK. Just kind of walk through a couple of things. Did TRC have any concerns that were not satisfactorily addressed? I know the answer, but I want to ask it publicly so we.

Mr. Murphy: At TRC, there were concerns about the initial site plan. We requested that they make sure to include the landscape buffer, that they make sure to include the make sure that they're meeting the proper setbacks, as one of them had been mislabeled on the site plan originally to be 9.9 feet, and there were other such nuances about their initial submission that were incorrect. They came back with a refined design, which you have seen presented to you tonight, which meets all the requirements set forth by them. In additional to the minimum requests that the Town can make in these type of hearings, which really are very limited in regards to utilities and sidewalks and things of that nature.

Vice Chairman Rouse: OK. Next, I just want to clarify for everyone. This is not a rezoning request.

Mr. Murphy: This is not a rezoning request.

Vice Chairman Rouse: OK.

Mr. Murphy: It's a Conditional Use Permit for a use that is permitted by conditional use in the R-1 zoning district. It requires additional review by a Technical Review Committee, by Planning and Zoning as a recommendation board, by Town Council as the approving governing board.

Vice Chairman Rouse: OK. Orienting a property east to west or north to north to south or any variation thereof, as long as it meets all the ordinances and all the codes within the Town, that's completely up to the property owner. Am I correct?

Mr. Murphy: Yes, sir.

Vice Chairman Rouse: OK. Would you explain to everyone who is on TRC? I know Mr. Barnes did it.

Mr. Murphy: Yes, sir. TRC can consist of as few as people as Jeremy and myself for projects that are extremely small scale but require a little bit more review to as many as 1 to 2 staff members from every department in the entire Town. At minimum, that would consist of usually 1 to 2 members of the Planning Department, the Building Inspector, 2 members from the Stormwater Department, 1 member from the Utility Department, 1 to 2 from the Fire Department, 1 from Police, and usually the Assistant Town manager or the Town manager depending upon the nature of the project or projects being presented at TRC that month. TRC is also not limited just to the Town of Carolina Beach. When we are dealing with substantial developments in coastal areas or in wetlands areas, we will have members of the U.S. Army Corps or the Department of Environmental Quality. Initially we commonly have people representing N.C. DOT and other state organizations whenever we're dealing with projects along the DOT right-of-ways in the Town of Carolina Beach.

Vice Chairman Rouse: Thank you. If the builder had submitted plans to build 4 units on this lot, we would not be hearing this?

Mr. Murphy: Provided that they divided this lot into 2?

Vice Chairman Rouse: Yes.

Mr. Murphy: Yes, we that would be permitted by right, 2 units on each lot.

Vice Chairman Rouse: And essentially, because of the size of the lots, and we'll call it 2 and a half, but theoretically 2 and a half lots, they have exactly the same land as they would have if theoretically they could divide 'em all?

Mr. Murphy: If they were able to develop.

Vice Chairman Rouse: You're not you're not you're not really adding to the density in that matter?

Mr. Murphy: Exactly. The only thing that cannot occur here is we're not allowed to partially divide a lot in the Town of Carolina Beach. You have to meet the minimum lot standards, and they do not meet the minimum lot standards for 3 lots.

Vice Chairman Rouse: But there's still that amount of land if you could theoretically divide those lots?

Mr. Murphy: Yes, sir.

Vice Chairman Rouse: I think that would be very helpful for everyone understanding the decision. Thank you for your time.

Mr. Murphy: Yes, sir.

Mr. Hardison: So the minimum lot width in R-1 is 50 feet and the width of this property is 140 feet, so they just to do a straight subdivision 3 lots, they are short 10 feet.

Vice Chairman Rouse: Right.

Commissioner Piper: However, theoretically, you could take the 5 buildings, cut the middle 1 in half and make the other ones 50 percent bigger or however that would work out, and that would be, that would be correct because it's the same square footage, just in 2 buildings.

Mr. Hardison: That would be an option, yes.

Commissioner Piper: I mean, I just want to make sure that like that that's where the square footage, the density, and you could make just 2 bigger buildings instead of 3 buildings and it would be permitted.

Mr. Hardison: You could take up the same footprint.

Vice Chairman Rouse: It would be by right.

Commissioner Piper: Yeah, and it would be by right.

Chairman LeCompte: Mr. Crouch?

Commissioner Crouch: Yeah, I had a question, Miles. On this site plan, what is the overall lot coverage with the square footage of those houses?

Mr. Murphy: The lot coverage is 38 percent.

Commissioner Crouch: 38?

Mr. Murphy: Yes, sir.

Commissioner Piper: So under the specific standard it says required yards and other open spaces and preservation of existing trees and natural features. I I don't see the trees that are on there on the site plan, so I assume they're gonna be removed?

Mr. Murphy: No, unfortunately, my understanding based on the proposed design is that they would not be able to accommodate the 2 existing trees on the parcel. That would obviously be up to the builder's discretion.

Chairman LeCompte: I actually rode by the lot. Those trees are like almost in the center.

Commissioner Piper: Well, that's why I was looking at it, so that they would, you know, that they would, I was like they've gotta be removed. So I I do have some questions about like stormwater because it affects the house that I live at considerably. So and this might go to the engineers, so my question is how many inches of fill would you put on the fill pad?

Mr. Hardison: Excuse me, can you please just come to the mic, so we can get you on? Thank you.

Chairman LeCompte: Sir, were you sworn in too at the? OK, so I'll need you to just come up and get sworn in too please. Put your hand up. Do you solemnly swear that the statements you shall make are the truth and nothing but the truth, so help you God? Thank you. If you will state your name and address, please, when you get to the podium.

Mr. Manhertz: Mason. I live at 405 South 16<sup>th</sup> Street in Wilmington, North Carolina.

Chairman LeCompte: OK, so you had some questions for the engineer?

Mr. Manhertz: Would you mind repeating your question?

Commissioner Piper: So my question is it has to do with the stormwater. I don't know if you can pull up the site. So the adjoining neighbor said that the water comes across her comes across the site, so currently, the current flow of water is across the site to the back corner to where the wetland is. And so now the idea is based on the site plan that the water's gonna drain to the front.

Mr. Manhertz: Correct.

Commissioner Piper: OK, so OK, so here's an overhead of it, right? So when that water drains to the front, you know, because so, I don't know. Let's call them houses, 60 feet long, say 70 feet to the street. If it's a 8-inch grade, so you have 1 inch for every 8 feet, OK? So you're gonna have like 10 to 12 inches of fill, you know, by the time you hit the back of the back of the house to have that swale that goes to the street, OK? So my question is where does all that water go because now you've created, you know, essentially like, you know, all this impermeable is now all draining to the front, whereas historically it's always drained to that wetland in the back, which I mean it, you know, that's where all the new houses were constructed. They all drain into that wetland. It's like a water sink, so all that water goes to the front. So I don't know if you can answer that question, but it is a concern to me. Where does all that water go? You've just dumped that 38 percent of that property, which is how many however many square feet. All that water's now going to the front, so, you know, like the rain we got today, that's probably, I don't know, a few hundred to a million gallons of water.

Mr. Manhertz: That's a valid concern. If you take a look at the site plan, there are 2 catch basins on either side of the property that runoff will be able to drain to.

Commissioner Piper: So those tie into the city sewer or the city stormwater?

Mr. Hardison: City stormwater.

Mr. Manhertz: I believe so.

Commissioner Hogan: Where where are those basins?

Mr. Manhertz: Can we pull up that site plan again? That's kind of small, but the little box labeled CB. There's one right there and one on the other side.

Commissioner Hogan: I got it now.

Mr. Manhertz: So luckily there'll be some subsurface relief in proximity to that lot.

Commissioner Crouch: Those are the city's catch basins, right? So those aren't, like you guys aren't adding catch basins too?

Mr. Manhertz: No, we're not adding catch basins.

Vice Chairman Rouse: I believe those were the ones that one of the speakers said were added because there were some water and other.

Commissioner Piper: Those were on the other side of the street.

Vice Chairman Rouse: OK.

Commissioner Hogan: Yeah, those were catty-corner.

Commissioner Piper: So those are gonna, I mean I I so I did this at one point. So I mean, like, I forget how much, but today that rain that several million gallons of water are gonna run off that property, something like that. We probably had 3 or 4 inches of rain. I mean, it's a lot. So, I mean, I would, you know, that's the only thing I would say, I mean, you know, that that concerns me is like we're adding all that water running off. Where does it go, you know? It's a lot of water.

Mr. Manhertz: Well, we are we are we are under the state's stormwater permit requirement of 10,000 square feet, so we're not required to get a stormwater permit, but the requirement was that we would allow runoff to drain from the lots into the street. If it's of major concern, I'll have to talk to my client, but we could possibly look into some sort of subsurface collection, but again that's not what's required of us.

Commissioner Piper: I mean, I'm just I'm just speaking out.

Mr. Manhertz: Yeah.

Commissioner Piper: You know, like the subsurface, the problem is the groundwater's so high in that

area as well. You know, the groundwater the groundwater's maybe 6 inches below the water surface.

Mr. Manhertz: Gotcha.

Commissioner Piper: So it that that really doesn't.

Mr. Manhertz: I'm sure that was a concern for other developments, but those just drain right out to the road and are probably gonna be doing the same.

Commissioner Piper: Those are my only questions.

Mr. Manhertz: Yeah.

Chairman LeCompte: Any other questions? OK, thank you. So, Miles, now I have a question. Our Stormwater Department reviewed this plan, correct, and then approved it?

Mr. Murphy: They did. Two members of the Stormwater Department were at TRC, and they approved the plan after the additions of the swales and if again staff decides that this is a project under 10,000 square feet, so it is not required to have a state stormwater permit. That is what the engineer was referencing. It does require stormwater review by the Town, just for that clarification.

Chairman LeCompte: Thank you. Anyone else have any questions? Commissioner Boswell, you got anything?

Commissioner Boswell: No. Most of mine were already answered.

Chairman LeCompte: OK.

Commissioner Boswell: Mainly on the drainage.

Chairman LeCompte: I think most of mine were too.

Commissioner Hogan: Both of mine were answered.

Chairman LeCompte: Commissioner Ittu?

Commissioner Ittu: No.

Chairman LeCompte: OK.

Commissioner Piper: No, ma'am.

Chairman LeCompte: Does anyone want to entertain a motion?

Vice Chairman Rouse: Do we need a motion to close the discussion?

Chairman LeCompte: We already closed the discussion.

Vice Chairman Rouse: OK. Yeah, I'll take a swipe at it. I would make a motion that we approve the Conditional Use Permit, that it is in accordance with the draft grant order and that the applicant shall provide a 4-foot sidewalk parallel to South 3<sup>rd</sup> Street and Spartanburg Avenue right-of-ways and that it otherwise meets the seven specific standards and the four general conditions if and when developed accorded to the plan as submitted and approved.

Chairman LeCompte: Can I get a second?

Commissioner Hogan: I second.

Chairman LeCompte: All in favor?

Commission: Aye.

Chairman LeCompte: OK. All opposed?

**Commissioner Crouch: Nay (motion passes 6-1).**

Chairman LeCompte: OK, so 6-1. All right. Thank you, folks.

Mr. Hardison: And this will be heard at for Town Council meeting in December.

Commissioner Hogan: Thank you for your time.

Chairman LeCompte: Thanks, everyone.

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

Commissioner Boswell brought up an issue regarding boarding houses, which was discussed at the last Town Council meeting. She said everything she can find indicates that boarding houses are not allowed in R-3 but that the house in question has been operating for years and hasn't been addressed. She asked what the board can do to address this and requested input from Mr. Murphy and Mr. Hardison on how to proceed.

Mr. Hardison said the terminology of what exactly is a boarding house, a single-family home, and a multi-family home is problematic. He said the 5-bedroom house in question on Monroe Avenue is operating as a single-family home because it consists of not more than one family, defined as a group of people living as a single nonprofit housekeeping unit. Groups of 5 or more persons who are not related by blood or marriage shall not constitute a family under the current ordinance. Rentals of a weekly or longer basis, short-term and long-term, including per room, are allowed. Mr. Hardison said there is no definition for a boarding house, but there is one for a rooming house: any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes. The house in question is not a rooming house under this definition.



Mr. Hardison said Town Planning staff has been to the residence in question to investigate and found 4 people living there. He said there have been 3 complaints over the past 7 years, but Town staff never found any violation of the definition of single-family or other codes.

Commissioner Boswell said the amount of police calls about the house should deem it a nuisance property.

Vice Chairman Rouse said the house is not nonprofit, but Mr. Hardison clarified that the single-family definition means that the group of people operate as a nonprofit unit. He said it doesn't mean that the owner can't make a profit because if that were the case no one could rent out property in the Town.

Commissioner Piper asked if the house could be reported for not paying room occupancy tax (ROT). Mr. Hardison said the house should be paying ROT because it is renting for less than 90 days. He said New Hanover County is responsible for collecting those funds.

Mr. Hardison said the Town must have good standing, clear definitions, and clear regulations on why a property is being cited for zoning violations, and so far Town staff has yet to find anything of that nature as far as a land use and how the property is being used. He clarified that the 3 complaints were only from a zoning standpoint and not calls to law enforcement regarding public safety issues.

Commissioner Hogan said going after unpaid ROT is a slow process, but the State of North Carolina will go after someone quickly for not paying sales tax.

Vice Chairman Rouse said Town Manager Bruce Oakley mentioned changing the ordinance, but this could result in the property in question being grandfathered.

Mr. Hardison said his staff is meeting with Town Attorney Noel Fox tomorrow to discuss this matter. He urged Commissioners to send any ideas for ordinances they think are not being enforced. Commissioner Boswell read the nuisance property law and said that should result in many violations being found.

Vice Chairman Rouse asked if this would be a quasi-judicial matter and thus subject to ex parte communication rules if and when it comes before the board. Mr. Hardison said it would not be quasi-judicial, so Commissioners can have outside conversations about the matter without worrying about having to recuse themselves later.

Mr. Murphy said Town staff wants to be very careful with altering any definitions and regulations regarding the matter. The goal is to prevent enacting changes that could accidentally eliminate other rental properties or otherwise unintentionally place an undue burden on a large group.

Chairman LeCompte said the Town also doesn't want to grandfather something that will continue to be a problem, so staff must tread lightly and carefully.

## **ADJOURNMENT**

**ACTION: Motion to adjourn**

Motion made by Chairman LeCompte, Seconded by Vice Chairman Rouse

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

*Motion passes unanimously*

The meeting adjourned at 8:05 PM.



## AGENDA ITEM COVERSHEET

---

**PREPARED BY:** Miles Murphy, Senior Planner

**DEPARTMENT:** Planning

**MEETING:** Planning & Zoning – 10 DEC 2020

**SUBJECT:** Consider a CUP for Amusement Ride Placements on Boardwalk Lots (PINs - 3130-54-2980, 3130-54-4836, 3130-55-4065, 3130-55-5014, 3130-54-5992, 3130-54-5877, 3130-54-5778, 3130-54-5870, and 3130-54-6839)

---

### **BACKGROUND:**

Carolina Beach Land Holdings LLC plans to utilize multiple lots they own in the Boardwalk area to bring the amusement rides and vendors back to CB. The lots being utilized are the following:

- 100 Canal Drive PIN 3130-55-4065
- 8 Cape Fear Blvd. PIN 3130-55-5014
- 5 Carolina Beach Avenue South PIN 3130-54-5877
- 7 Carolina Beach Avenue South PIN 3130-54-5870
- 9 Carolina Beach Avenue South PIN 5150-54-5778
- 9 Cape Fear Boulevard PIN 5150-54-4836
- 1 Carolina Beach Avenue South PIN 5150-54-5992
- 3 Boardwalk PIN 5150-54-6839
- 101 Cape Fear Blvd. PIN 5150-54-2980

101 Cape Fear is currently under different ownership, but CB Land Holdings is in the process of purchasing the property and has secured permission from the owner to utilize their land as part of this CUP application. A demo permit is being issued for the removal of the current structure on 101 Cape Fear as a precursor to this use and/or future development.

There are no setback, buffering, parking, or lot coverage requirements for the CBD for this type of development

(1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

*- Ingress and egress will established via Cape Fear, Canal, Carolina Beach Avenue South, and Boardwalk right-of-ways*

*- Utilities and fire will meet with regarding ride and vending locations for access.*

*- No structures will impede Town RoWs*

(2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;

*- No parking requirement in CBD*

(3) Refuse and service area, with particular reference to the items in (1) and (2) above;

*- Trash will be deposited in the adjacent Town dumpster on Canal.*

(4) Utilities, with reference to locations, availability, and compatibility;

*- Work with utilities to place utility-dependent amusements in areas where utilities are easily accessible.*

(5) Screening and buffering with reference to type, dimensions, and character;

*- No buffering or screening is required*

(6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

*- No signage is proposed at this time and will have to meet all standards zoning requirements in the future*

(7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land.

*- No lot coverage, setbacks, nor open space requirements in the CBD for this type of development*

**General conditions.** The *town council*, in granting the permit, must also find that all four (4) of the following conditions exist;

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;

*- The density falls within the standard CBD density requirements and the proposed structure follows the setback requirements*

(2) That the use meets all required conditions and specifications;

*- The proposed CUP meets all required conditions and specifications*

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

*- The proposed use is consistent with the character of the CBD.*

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town land use plan and policies.

*- Downtown Business Area - This is the boardwalk commercial area and central recreation district of town. 3-4 story buildings maintain a pedestrian-scaled environment with active ground floor uses; residential and other uses permitted above. Highly walkable with limited on-street parking.*

*The project will be in general conformity with the Land Use Plan and in harmony of the area.*

#### **ACTION REQUESTED:**

Staff recommends the approval of the proposed CUP with the requirements that:

- An annual site visit with staff and vendor prior to placement of rides to have a complete understanding of the locations of all rides, concessions, ticket booths, ground covering materials, and work trailers.
- Requests for utilities must be coordinated with TOCB Operations and be located in areas which have access to existing utilities
- Annual site layout will not infringe on any established TOCB Right-Of-Ways

#### **RECOMMENDED MOTION:**

Approve the CUP, that it is in accordance with the draft grant order and that the applicant shall provide

- An annual site visit with staff and vendor prior to placement of rides to have a complete understanding of the locations of all rides, concessions, ticket booths, ground covering materials, and work trailers.
- Requests for utilities must be coordinated with TOCB Operations and be located in areas which have access to existing utilities
- Annual site layout will not infringe on any established TOCB Right-Of-Ways

and that it otherwise meets the 7 specific standards and the 4 general conditions, if developed according to the plan as submitted and approved.

Deny the CUP as it fails to sufficiently meet 1 or more of the general conditions to include (state conditions not met in the motion)

(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;

(2) That the use meets all required conditions and specifications;

(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town land use plan and policies.



Please complete all sections of the application.

**A. Property Information**

Address(es): SEE ATTACHED SITE PLAN AND NARRATIVE

PIN(s): \_\_\_\_\_

Project Name BOARDWALK Amusement Rides

Size of lot(s): 58,259 SF (1.34 acres)

**B. Application for Conditional Use Permit**

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):

CONTINUATION OF BOARDWALK AMUSEMENT RIDES

**C. Applicant Contact Information**

CAROLINA BEACH LAZO HOLDINGS LLC  
Company/corporate Name (if applicable):

MATTHEW MURPHY  
Applicant's Name

1202 N. LAKE PARK BLVD  
Mailing Address

CAROLINA BEACH, NC 28428  
City, State, and Zip Code

910-458-5605  
Telephone

matt@secofconstruction.com  
Email

**D. Owner Contact Information (if different)**

Owner's Name

Mailing Address

City, State, and Zip Code

Telephone

Email

General conditions. Council, when granting a conditional use permit, shall find that all four of the following factors found in Chapter 40 Article XI exist. In the spaces provided below, indicate the facts and arguments that prove you meet the following conditions:

1. Indicate how the proposed CUP will not adversely affect health or safety if located where proposed and developed according to the plan submitted:

ALL RIDES WILL BE INSPECTED BY THE DEPARTMENT OF LABOR TO  
PROTECT THE HEALTH, SAFETY AND WELFARE OF THE GENERAL PUBLIC

2. Indicate if the proposed Conditional Use Permit meets all required conditions and specifications or if any waivers are requested:

YES

3. Indicate how the proposed Conditional Use Permit will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity:

CONCERNS WITH NOISE, TRASH CONTROL, TYPE AND LOCATION AND  
GENERAL IMPACT TO NEIGHBORS HAVE BEEN AND WILL CONTINUE TO  
BE ADDRESSED AND RESOLVED

4. Indicate that the location and use of the proposed Conditional Use Permit, if developed according to the plan as submitted, will be in harmony with the area in which it is to be located and in general conformity with the Town of Carolina Beach's Land Use Plan and policies.:

ORIGINAL ELEVEN YEARS AND PROPOSED FIVE YEAR PERMIT  
ARE IN COMPLIANCE WITH THE GENERAL REQUIREMENTS OF THE  
CURRENT LAND USE PLAN.



*Specific standards.* No conditional use shall be granted by Town Council unless the following provisions and arrangements where applicable, have been made to the satisfaction of the council.

1. Indicate how the Ingress and egress to the property and proposed structures in reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:

PEDESTRIAN FLOW WILL BE CONTROLLED WITH BARRIERS AT PUBLIC  
STREET INTERSECTIONS

2. Indicate how the off-street parking and loading areas met, and how the economic, noise, glare, or odor of the propose use will affect the adjoining properties.

PARKING IS REQUESTED TO BE WAIVED. TYPICALLY EMPLOYEES ARE  
DROPPED OFF OR ARE LOCALS WHO ARE SIMILAR TO YOUR TYPICAL EMPLOYEES

3. Indicate how the refuse and service area, will be handled.

MUNICIPAL REFUSE FACILITIES AT CANAL AND RALEIGH WILL BE  
UTILIZED

4. Indicate how adequate and proper utilities, with reference to locations, availability, and compatibility are to be provided or how the item listed are not applicable to the proposed CUP.

OWNER HAS INSTALLED ADEQUATE POWER AND ADDITIONAL GENERATORS  
IF REQUIRED

5. Indicate how screening and buffering with reference to type, dimensions, and character will be provided or why it is not provided for;

TEMPORARY NATURE OF RIDES REQUEST A WAIVER FOR LANDSCAPE  
BUFFERED

6. Indicate how signs, if any, and the proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

TYPICAL SIGNAGE AND LIGHTING ARE INTEGRATED WITH THE  
PACKAGED RIDES

7. Indicate the required yards and other open space and preservation of existing trees and other attractive natural features of the land.

CURRENT LOTS HAVE NO VEGETATION

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 type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Location of all existing and proposed structures and the setbacks from property lines of all affected structures to remain on-site |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" 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 type="checkbox"/>            | <input type="checkbox"/> | <input checked="" 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:

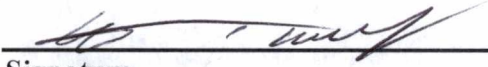
- | <u>Yes</u>                          | <u>No</u>                           | <u>N/A</u>                          |   |
|-------------------------------------|-------------------------------------|-------------------------------------|---|
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Location and design of refuse facilities  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Approximate locations and sizes of all existing and proposed utilities  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Existing and/or proposed fire hydrants (showing distances)  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Adjacent properties with owners' information and approximate location of structures   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Distances between all buildings   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Number of stories and height of all structures  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Locations of all entrances and exits to all structures  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Calculate the gross floor area with each room labeled (i.e. kitchen, bedroom, bathroom)   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be use       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Location of flood zones and finished floor elevations   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | CAMA Areas of Environmental Concern (AEC) and CAMA setbacks   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" 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 checked="" type="checkbox"/> | Proposed landscaping including percentages of open space  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Stormwater management systems   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Cross-sectional details of all streets, roads, ditches, and parking lot improvements  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Building construction and occupancy type(s) per the building code   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Location of fire department connection(s) for standpipes  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Turning radii, turnarounds, access grades, height of overhead obstructions  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" 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 development plan shall be submitted in accordance with Chapter 40 Article

**OWNER'S SIGNATURE:** In filing this application for a conditional use permit 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. I hereby designate GREG REYNOLDS  
To act on my behalf regarding this application, to receive and respond to administrative comments, to resubmit plans on my behalf and to speak for me in any public meeting regarding this application.

  
\_\_\_\_\_  
Signature

11/2/2020  
\_\_\_\_\_  
Date

**AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF**

The undersigned owner, ROGER E ; BRENOA S. JOHNSON does hereby appoint MATTHEW MURPHY to act on my behalf for the purpose of petitioning the Town of Carolina Beach for: a) an amendment to the text regulations; b) a change to the zoning map; c) approval of a special use permit; d) approval of a special use district; and/or, e) street closing, 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: 11-2-20

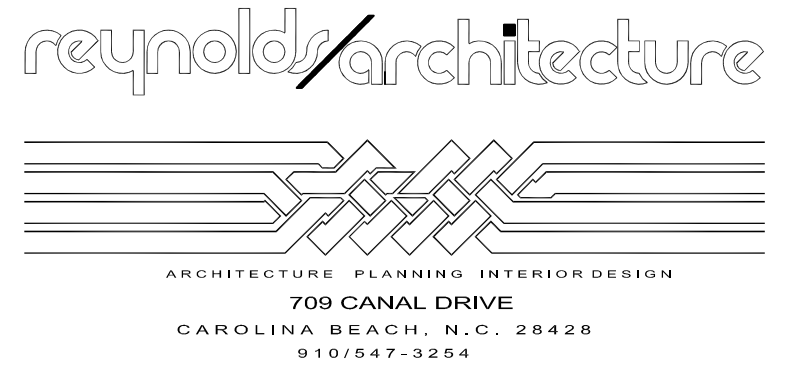
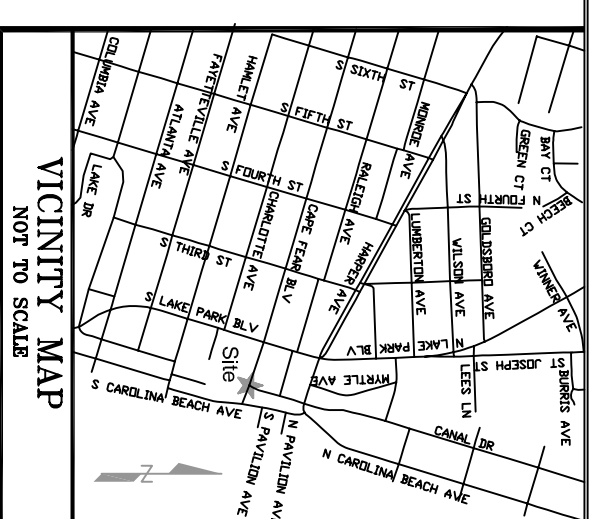
REF  
101 CAPE FEAR BLVD  
PIN 5150-54-2980

Appointee's Name, Address & Telephone:

MATTHEW MURPHY  
CAROLINA BEACH LAND HOLDINGS LLC  
1202 N. LAKE PARK BLVD  
CAROLINA BEACH, NC 28428

Signature of Owner:

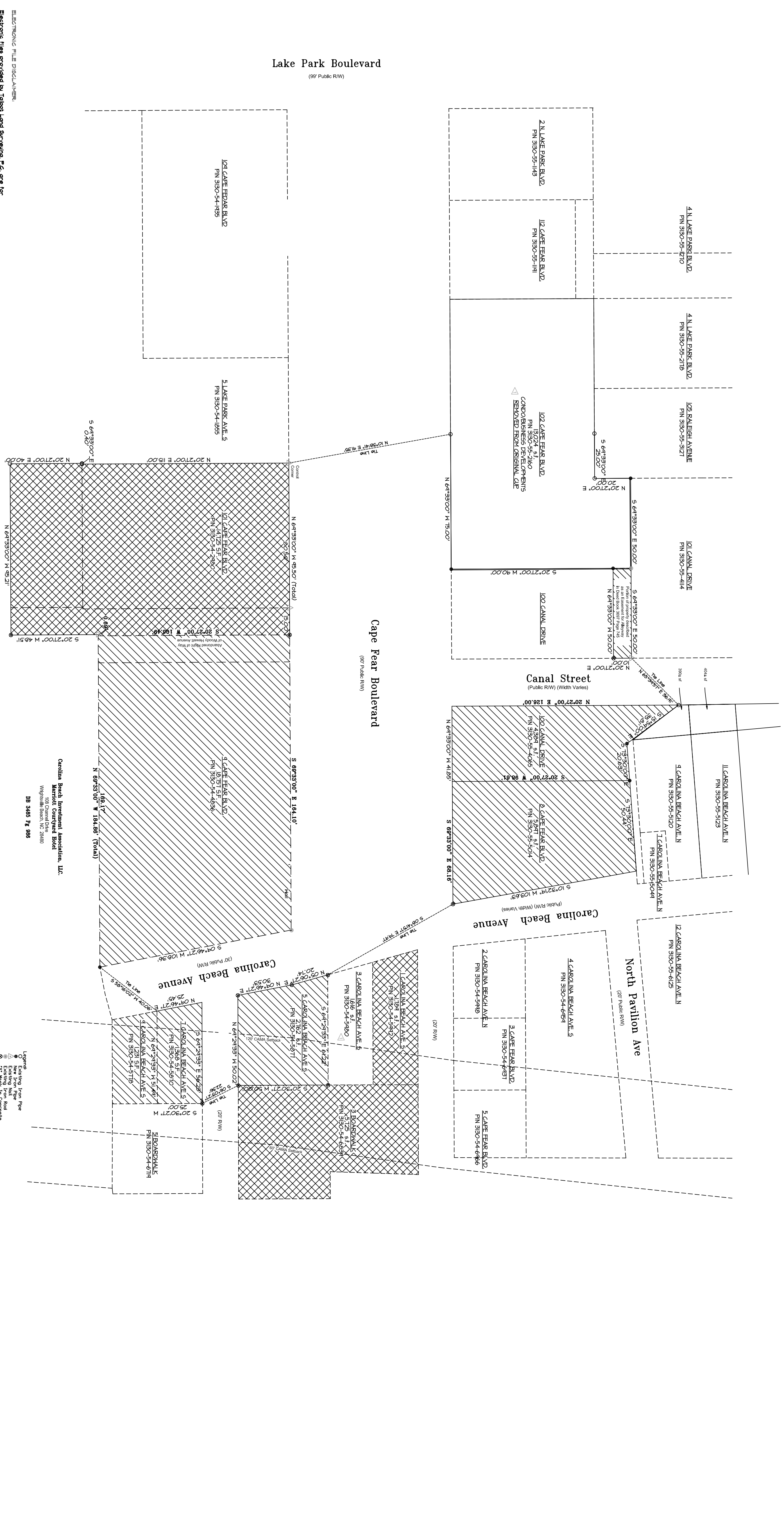
Roger E Johnson 11-11-20



DATE	REVISIONS
11-1-20	12-2-20
DRAWN BY	REYNOLDS
R/A PROJECT NUMBER	2020-118
CLIENT PROJECT NUMBER	SEC0F-101
SCALE	1" = 30'-0"
FILE NAME	2021 ADJ. NB.

**REVISED CONDITIONAL USE PERMIT**  
**PROPOSEDSITE PLAN FOR**  
**CAROLINA BEACH LAND HOLDINGS**  
 1202 N. LAKE PARK BLVD.  
 CAROLINA BEACH, NORTH CAROLINA

**A1:1**  
 SHEET NUMBER  
 2021 MANAGEMENT REVISIONS  
 PROJECT NUMBER 2020-118



**ELECTRONIC FILE DECLARATION:**  
 Electronic files provided by Talbot Land Surveying, P.C. are for electronic use only and are not intended for printing. The user is responsible for ensuring that the files are printed correctly. The user is responsible for ensuring that the files are printed correctly. The user is responsible for ensuring that the files are printed correctly.

**Preliminary**  
 For Review Purposes Only  
 NOT FOR RECORDATION  
 CONSULT YOUR ATTORNEY

**SURVEY FOR**  
**Secot Construction, Inc.**  
 Various Parcels on Cape Fear Boulevard  
 Carolina Beach Township, New Hanover County  
 North Carolina  
 December 29, 2004  
 BARE SCALE 1" = 30'

**Talbot Land Surveying, P.C.**  
 16747 U.S. Hwy. 17, Suite 108  
 Hampstead, North Carolina 28443  
 Phone: (910) 270-9824

**PROPOSED REVISION**  
**CONDITIONAL USE PERMIT**  
 SCALE 1" = 30'-0"

**Boardwalk Amusement Rides  
Conditional Use Permit Revision Application  
r.1 Re-Submission for 12-10-20 P & Z**

2020 CUP Original Submission -November 1, 2020  
(Extension Application January 15, 2010)

(Original Grant Order April 14, 2009 - Note: Original Applicant – Mergerle’s Magic & Hildebrand Rides

Applicant: **Carolina Beach Land Holdings LLC**  
**Attn: Matthew Murphy**  
1202 North Lake Park Boulevard  
Carolina Beach, NC 28428  
(910) 458-5605  
[matt@secofconstruction.com](mailto:matt@secofconstruction.com)

Land Owner: **Carolina Beach Land Holdings LLC**  
**Attn: Matthew Murphy**  
1202 North Lake Park Boulevard  
Carolina Beach, NC 28428  
(910) 458-5605  
[matt@secofconstruction.com](mailto:matt@secofconstruction.com)

Architect: **Reynolds/Architecture**  
**Attn: Greg Reynolds**  
709 Canal Drive, A2  
Carolina Beach, NC 28428  
(910) 458-0082  
[Greg.Reynolds.Architecture@gmail.com](mailto:Greg.Reynolds.Architecture@gmail.com)

Project: **Carolina Beach Boardwalk Rides**

Previous Conditional Use Permit

<del>102 Cape Fear (includes 108 Cape Fear) Condo/Business Development</del>	
<del>PIN 3130-55-2160</del>	<del>13,024 sf</del>
100 Canal Drive	
PIN 3130-55-4065	4,389 sf
8 Cape Fear Blvd.	
PIN 3130-55-5014	5,897 sf
5 Carolina Beach Avenue South	
PIN 3130-54-5877	2,762 sf
7 Carolina Beach Avenue South	
PIN 3130-54-5870	1,368 sf
9 Carolina Beach Avenue South	
PIN 5150-54-5778	1,231 sf
9 Cape Fear Boulevard	
PIN 5150-54-4836	18,757 sf

Proposed Expansion of Conditional Use Permit

1 Carolina Beach Avenue South	
PIN 5150-54-5992	1,789 sf
<del>3 Carolina Beach Avenue South</del>	
<del>PIN 5150-54-5980</del>	<del>1,616 sf</del>

## Conditional Use Permit r.1 Revision Application

Carolina Beach Land Holdings

December 2, 2020

3 Boardwalk	
PIN 5150-54-6839	5,725 sf
101 Cape Fear Blvd.	
PIN 5150-54-2980	14,725 sf
Previous Conditional Use Permit	47,428 sf
<u>Abandoned 102/108 Cape Fear</u>	<u>(13,024 sf)</u>
	34,404 sf
Proposed Expansion	23,855 sf
<u>Removed 3 CB Ave. South</u>	<u>( 1,616 sf)</u>
Total Revised CUP	56,643 sf (1.30 acres)

Please note the following conditions:

1. 102 and 108 Cape Fear Blvd. was part of the original Conditional Use Permit, but has been developed as a Condo/Business Development and will not be counted in the area tabulations.
2. ~~3 Carolina Beach Avenue South (Old Shell Building) is owned by the Town of Carolina Beach. Applicant will secure "Authority For Appointment of Person to Act On My Behalf".~~
3. 101 Cape Fear Boulevard (Old Sterling Mall Building) is owned by Roger E. & Brenda S. Johnson. Applicant will secure "Authority For Appointment of Person to Act On My Behalf".

With the 2009-2019 success of the first decade+ of amusements, arcades, rides and games at the historic boardwalk of Carolina Beach, the Applicant and Land Owner, is requesting an extension and an expansion of the original conditional use permit originally issued on April 14, 2009, modified in July of 2009 and January 15, 2010. The Conditional Use Permit has brought a family-oriented carnival consisting of a series of large mechanical rides, Kid's rides, fun houses and food stands to the historic Carolina Beach Boardwalk since May of 2009. The applicant is requesting an extension of five years 2021 through 2026. The facilities will remain in place for a period of not to exceed six months per year (The Season) and would reserve the right to return in succeeding years with a similar operation.

The applicant will employ the services of a fully licensed Amusement Operator and inspected by the North Carolina Department of Labor, specifically the Elevator & Amusement Devise Bureau under the Amusement Devise Safety Act and its pertinent administrative rules. The intent of the Act is that amusement devices shall be designed, constructed, assembled (or disassembled), maintained and operated so as to prevent injuries. Inspectors shall inspect each amusement devise at each location to determine if the devise has been soundly constructed and properly erected; modified to comply with any changes in safety requirements prescribed by the manufacturer; and has a log of previous inspections over the past twelve months. In addition, before the ride is open to the public each day, the foreman of each ride goes through every part with a safety checklist to make sure everything is in place.

The Applicant/Tenant will provide liability insurance specifically for its operation of no less than one million dollars per occurrence against liability for injury to persons or property arising out of the operation of such devise acceptable to the North Carolina Department of Insurance.

## Conditional Use Permit r.1 Revision Application

Carolina Beach Land Holdings

December 2, 2020

Attached is a Site Survey (12-2-20) indicating graphically the affected properties as well as adjacent properties. The Applicant requests an annual meeting with Planning Staff to review the number, layout and types of rides, concessions and reserves the right to re-arrange/substitute entities based on unforeseen circumstances throughout the Season *with administrative approval from the Planning Director* (such as availability, topography, etc.). The Applicant requests that all required parking be waived in this instance due to the following criteria:

1. The surrounding Hotel/Motel accommodations already provide adequate parking which will encourage traffic flow of pedestrian, bicycles and taxis.
2. Local residents typically walk or are dropped off at the Boardwalk during the Season.
3. Majority of the Carnival riders buy all-day passes which will overwhelmingly reduce parking needs in the CBD and encourage patronage of all businesses.
4. The majority of the users of these facilities will also visit the surrounding businesses, as well as the beach strand and will have typically already used a designated parking space. Providing additional spaces would be redundant.
5. As in most successful Ocean Resort towns, parking is located at the perimeters (i.e. rental location, residence, Town-owned lots) and pedestrian/alternative modes of transportation are encouraged. The degree of difficulty to parking is inversely proportionate to the amount of time and money the tourist will spend in the CBD.

Hours of Operation will remain unchanged and will be 10:00 AM until 11:00 PM Sunday through Thursday. The Facility will remain open an additional hour until midnight on Friday and Saturday. If additional hours of operation are anticipated for special occasions, the Town Manager will be approached for a Special Use Permit.

Each ride, ticket booth and food stand requires a minimum of one employee to operate, thus it is anticipated a minimum of eighteen employees will be on site at any given time. Based on crowd capacity, up to thirty employees may be utilized. A manager will be on duty at all times and be in contact with the Ticket Booth to handle all situations. The Applicant anticipates local employment opportunities during the season to operate non-technical positions within this operation. Criminal background checks shall be performed on all full-time amusement ride operators per the original CUP.

The Applicant will provide up to four temporary port-o-let toilet units (three standard and one accessible) which will allow a capacity of 230 (2 male at 75 and 2 female at 40).

The Applicant has previously invested in excess of \$10,000.00 for temporary power for use with this proposal. If for some reason power is not adequate, generators can be provided, however it is the desire of the Applicant to use permanent on-site power distribution, unless noted otherwise.

Applicant is again requesting that off-street loading requirements be waived based on its location in the CBD. The following conditions are anticipated:

- Loading area is anticipated to be on Raleigh Avenue, similar to the entire Boardwalk area.
- Loading will typically take place prior to 10:00 AM
- The largest truck anticipated will be the food delivery trucks typically seen serving the Boardwalk area.



## Conditional Use Permit r.1 Revision Application

Carolina Beach Land Holdings

December 2, 2020

- The loading period for the vendors should be less than 15 minutes. Most of the vendors anticipated already serve the Boardwalk area.

Refuse collection and recycling will be provided throughout all sites and be collected on a daily basis. In addition, a dumpster will again be provided on the west side of Parcel Two

No temporary living facilities shall be located on site.

Applicant agrees to strictly abide by the Town Of Carolina Beach Noise Control Ordinance (Sections 10-4 through 10-10). The Applicant will be available for a weekly meeting to discuss adjoining property Owners concerns as deemed necessary by the Town Manager. It has always been the intent of the Applicant to be a good neighbor in this endeavor.

### Additional Notes from 11-16-20 TRC Meeting

1. Future communications will be key to success:
  - a. Annual Site Visit prior to placement of rides with complete understanding of locations of all rides, concessions, ticket booths and work trailers.
  - b. Request for utilities must be in coordination with TOCB Operations based on existing location of utilities.
  - c. Layout will not infringe on any established TOCB Right-Of-Ways
2. Layout will not impede access for CBFD to tall rides with emergency lane accesses to be open at all times.
3. TOCB Planning and Zoning to meet on 12-10-20 to review this Conditional Use Permit. Owner is required to have an Attorney to represent their interests.