

CAROLINA BEACH

Planning and Zoning Meeting

Thursday, March 14, 2024 – 6:00 PM

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



AGENDA

CALL TO ORDER

APPROVAL OF MINUTES

- [1.](#) February 8th, 2024 – P&Z Minutes

STAFF REPORT ON RECENT COUNCIL MEETINGS

STAFF REPORT ON RECENT DEVELOPMENTS

PUBLIC DISCUSSION

DISCUSSION ITEMS

- [2.](#) Zoning Map Amendment to consider a request to rezone 204 Harper Avenue from Mixed Use (MX) to Central Business District (CBD).

Applicant: STLBC, LLC

- [3.](#) Text Amendments to amend Chapter 40:

Sec. 40-73. - Dimensional standards for the various zoning districts,

Sec. 40-74. Dimensional standards for lots and principal structures, and

Sec. 40-426. - Reconstruction, maintenance, full or partial demolition and renovation of nonconforming situations.

Applicant: North Pier Holdings, LLC.

- [4.](#) Text Amendment to Chapter 40 Art. III. Zoning District Regulations, Art. V. Off-street Parking and Loading Requirements; Parking, and Art. IX. Development Standards for Particular Uses to amend standards for Wine and Beer Shops.

Applicant: Neapolitan Enterprises, Inc.

NON-AGENDA ITEMS

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Senior Planner

DEPARTMENT: Planning &
Development

MEETING: Planning & Zoning Commission – March 14th, 2024

SUBJECT: February 8th, 2024 – P&Z Minutes

Action:

Approve the February 8th, 2024 Minutes

CAROLINA BEACH

Planning and Zoning Commission Meeting

Thursday, February 8, 2024 - 6:00 PM

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



MINUTES

CALL TO ORDER

Chairman Rouse called the meeting to order at 6:00 PM.

PRESENT

Chairman Wayne Rouse

Vice Chairman Jeff Hogan

Commissioner Melanie Boswell

Commissioner Ethan Crouch

Commissioner Todd Piper

Commissioner Bill Carew

Commissioner Lynn Conto

ALSO PRESENT

Planning Director Jeremy Hardison

Senior Planner Gloria Abbotts

APPROVAL OF MINUTES

1. December 14, 2023 – Planning and Zoning Commission Minutes

ACTION: Motion to approve the minutes

Motion made by Vice Chairman Hogan, seconded by Chairman Rouse

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

Motion passed unanimously

STAFF REPORT ON RECENT DEVELOPMENTS

Ms. Abbotts reported the following statistics for the past two months:

Permitting

- 35 permits (renovation, repair, grading, additions, fences)
- 12 residential new construction
- 6 certificates of occupancy

Code Enforcement

- 20 complaints received
- 7 resolved

Demos

- 205 Texas Avenue
- 511 Charlotte Avenue
- 1117 Canal Drive
- 402 Ocean Boulevard
- 502 Ocean Boulevard
- 504 Ocean Boulevard

New Businesses

- Pleasure Island Properties – 1204 North Lake Park Boulevard, Suite A2
- Mahalo Enterprises Beef Jerky Store – 120 North Lake Park Boulevard, Unit 104

Town Council and Other Updates

- Conditional Zoning (CZ) modification for Kindred, 205 Charlotte Avenue – approved by Council January 10
- Variance, 1800 Canal Drive – Board of Adjustment denied request for lot coverage, setbacks, and height variance
- Appeal, 401 Marina Street – Board of Adjustment upheld staff’s determination of non-conforming regulations
- Upcoming Board of Adjustment training on quasi-judicial process – March 7 at 2:00 PM
- Upcoming CZ request for Seaside Chapel School
- Upcoming text amendment for sidewalk cafes
- Upcoming text amendment for wine and beer shops

PUBLIC COMMENT

None

PUBLIC HEARINGS

2. Text Amendment to Chapter 40, Article V Off-Street Parking and Loading Requirements; Parking to Amend Church Parking
Applicant: St. Paul’s United Methodist Church

Applicant St. Paul’s United Methodist Church has petitioned the town for a text amendment to establish a less restrictive parking requirement for churches. The existing ordinance language has auditoriums, stadiums, assembly halls, gymnasiums, theaters, churches, and convention centers in one category. The parking requirement is 1 per 200 square feet plus 1 per every 4 persons accommodated by the facility at maximum capacity. This has required St. Paul’s, Carolina Beach Presbyterian Church, and Seaside Chapel to provide a large number of on-site parking spaces for additions that have been built to the churches. This text amendment is similar to the parking requirement in neighboring municipalities.

The text amendment consists of removing churches from the existing category of uses, putting them in their own category, and requiring 1 space per 300 square feet of indoor gross floor area. Auditoriums, stadiums, assembly halls, gymnasiums, and convention centers will still have the existing parking requirement. This ordinance change creates both an easier interpretation for staff and does not overburden the church with a restrictive parking requirement. A less stringent parking requirement reduces the need for larger surface parking lots and therefore improves stormwater runoff. If adopted, all 5 churches in the Town would be in compliance.

The text amendment is in general conformity with the 2020 Land Use Plan. Staff recommends approval of the text amendment as proposed.

Ms. Abbotts presented the details.

ACTION: Motion to open the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

Tom Bridges of 600 Ocean Boulevard, who is Chair of the Church Council at St. Paul's, said this will help give the facility more flexibility and benefit churches that are growing but having trouble meeting requirements to fit in the space they have on the island. He said the capacity of churches is far different from the capacity of auditoriums.

Mr. Hardison said removing churches from the existing category of uses was recommended in Unified Development Ordinance (UDO) discussions.

No one else requested to speak.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

Commissioner Conto said the Town is fortunate to have so many active churches, and she praised St. Paul's as a great steward in our community. She said it's punitive to require churches to have so many spaces with parking at such a premium in the community.

Commissioner Carew said it's a good move in general to define churches separately.

Commissioner Piper said it's better for everyone to move churches into their own category and have a clear parking calculation.

Commissioner Crouch said he supports the request.

Commissioner Boswell said churches should not be categorized with auditoriums and that many people bike and walk to church, so not everyone needs a vehicle.

Vice Chairman Hogan said he likes having a square footage requirement because it makes regulation easier.

Chairman Rouse said he supports the request.

ACTION: Motion that whereas in accordance with the provisions of the North Carolina General Statutes, Planning and Zoning does hereby find and determine that the adoption of the following ordinance amendment to amend Chapter 40, Section 40-150 Off-Street Parking Standards to amend standards for church parking is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans

Motion made by Vice Chairman Hogan, seconded by Commissioner Boswell

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

Motion passed unanimously

Stuart Milton introduced himself as the new Pastor at St. Paul's and said he appreciates the support.

3. Text Amendment to Amend Chapter 40, Section 40-74 Dimensional Standards for Lots and Principal Structures and Section 40-426 Reconstruction, Maintenance, Full or Partial Demolition and Renovation of Non-Conforming Situations
Applicant: North Pier Holdings LLC

Applicant North Pier Holdings LLC is applying for two text amendments.

The first text amendment pertains to Section 40-74 Dimensional Standards for Lots and Principal Structures to allow exceptions to building height in the following residential zoning districts: R-1, R-1B, R-2, R-3, MH, and MF. The text amendment proposes allowing an additional 10 feet in building height for elevators. The applicant is pursuing this text amendment because they added a 4th story to a non-confirming multi-family building located at 1800 Canal Drive in the R-1 zoning district and do not have enough allowable height for the top of the elevator shaft. According to the applicant, the elevator shaft would be the only aspect of the building exceeding the zoning district height and is needed to allow the elevator to service the 4th-floor units.

Historically, the Town prior to 2002 allowed a building height of 35 feet with an additional 10 feet for roof pitch. In 2002, Council changed the allowable building height to 50 feet in some zoning districts for uniformity and ease of ordinance implementation by staff. Council agreed that anything above 50 feet will require sprinkler systems and must be reviewed and approved under a Conditional Use Permit.

Additionally, the existing buildings at 1800 Canal Drive were 3 stories and a total of 37 feet in height. As is, the applicant could have added a new elevator to the existing building with plenty of height for an elevator shaft. The applicant added a 4th story, consisting of 4 penthouses, which increased the building height to 50 feet. The applicant then ran into the issue of not being able to add an elevator to the building to service the 4th floor due to the elevators requiring extra elevator shaft head room.

The second text amendment is to amend Section 40-426 Reconstruction, Maintenance, Full or Partial Demolition, and Renovation of Non-Conforming Situations. This text amendment would allow an increase in the maximum lot coverage of non-conforming buildings specifically for riser rooms needed for fire suppression systems. The applicant proposes allowing an increase to the lot coverage of a non-conforming building if the expansion of the lot coverage is directly attributable to the addition of improvements for fire suppression, including sprinkler systems.

The applicant is pursuing this text amendment because they are required to add a riser room to the building for fire suppression sprinkler systems. The applicant is currently renovating 2 buildings at 1800 Canal Drive. They demoed 4 staircases and 1 elevator on the buildings. Staff allowed the applicant to redesign the building as long as they did not increase encroachments into the setbacks, exceed building height, and expand lot coverage. Specifically, regarding lot coverage, the applicant was allowed to reallocate the areas of the building that were demoed as long as the total proposed lot coverage did not exceed the existing lot coverage of 15,776 square feet. The existing lot coverage of the lot at 1800 Canal Drive was 47% (15,776 square feet), which already exceeds current allowable lot coverage. This text amendment would permit existing non-conformities to expand even further.

PROPOSAL

The first text amendment, Section 40-74 Dimensional Standards for Lots and Principal Structures, proposes that standard building height limitation may be exceeded by up to 10 feet when renovating an existing residential structure that is 3 stories or more when the height is directly attributable to the addition of an elevator. This notation pertains to the following residential zoning districts: R-1, R-1B, R-2, R-3, MH, and MF.

The second text amendment, Section 40-426 Reconstruction, Maintenance, Full or Partial Demolition, and Renovation of Non-Conforming Situations, proposes that notwithstanding the foregoing, lot coverage may exceed that of the original construction if the expansion of the lot coverage is directly attributable to the addition of improvements for fire suppression, including sprinkler systems. This language is added to 2 paragraphs in this section.

LAND USE PLAN AND STAFF RECOMMENDATION

Both proposed text amendments are not in general conformity with the Town's 2020 Land Use Plan. The building height text amendment proposal is in opposition of the Redevelopment section of the 2020 Land Use Plan: "Increased building heights (especially in or near the downtown area) may conflict with the character of existing areas." Additionally, in the Family Friendly Community section of the

Land Use Plan, lower structure heights are viewed as a contributing factor to a family-friendly community.

The lot coverage text amendment is also in opposition to the Community Goals section of the Land Use Plan. Goal #4 states a desire of the community to reduce overall non-conformities in the Town but also respect existing uses and entitlements and the rebuilding of structures. The buildings at 1800 Canal Drive are considered non-conforming for a variety of factors, including exceeding the allowable lot coverage for the zoning district. The R-1 zoning district, in which this parcel is located, allows 40% lot coverage. The existing buildings have a lot coverage of 47%. Proposing expansions to lot coverage for an already non-conforming structure would not adhere to the intent of Goal #4 in the Land Use Plan.

Staff recommends denying both text amendments for the following reasons:

- Both proposed text amendments do not conform to the Town's 2020 Land Use Plan.
- The current and historical ordinance has only, specifically, allowed hotels in the Central Business District (CBD) to exceed the 50-foot building height limitation through CZ. No residential areas have ever allowed building height to exceed 50 feet.
- The original height of the building was 37 feet. The applicant could have added an elevator to the existing 3 stories and had plenty of height left for elevator shaft requirements. The applicant added a 4th story to a non-conforming building and then ran into the issue of the elevator needing to go beyond the 50-foot height limitation.
- There is no specific square footage allowance for the size of riser rooms or what is needed to meet building code requirements. The plans proposed for the variance for 1800 Canal Drive showed a riser room on the 1st floor that was 12 feet by 10.5 feet, but then that area above the riser room, except for a 4-foot-by-4-foot area for the riser room pump, was used for storage and a large penthouse balcony. This means the text amendment would grant a riser room needed on only 1 floor, but the additional floors would use the additional lot coverage for other uses besides fire suppression.

Mr. Hardison said the applicant requested that this item be tabled until next month.

NON-AGENDA ITEMS

Chairman Rouse asked if the upcoming request for Seaside Chapel School will be CZ and not quasi-judicial. Mr. Hardison said yes, the Technical Review Committee (TRC) will review the proposal for the school and it will be considered as a new use for that property under CZ.

ADJOURNMENT

ACTION: Motion to adjourn

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

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

Motion passed unanimously

Chairman Rouse adjourned the meeting at 6:18 PM.



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning & Zoning Commission **DEPARTMENT:** Planning & Development

MEETING: Planning & Zoning – March 14, 2024

SUBJECT: **Zoning Map Amendment** to consider a request to rezone 204 Harper Avenue from Mixed Use (MX) to Central Business District (CBD).
Applicant: STLBC, LLC

BACKGROUND:

The applicant, STLBC LLC, has submitted a petition to consider rezoning 204 Harper Avenue from Mixed Use (MX) to Central Business District (CBD) Zoning. The neighboring property to the east is under the same ownership, formally the Welcome Inn (205, 207, 209 N. Lake Park Blvd), and is currently in the CBD. The applicant has requested the rezoning because To have consistent zoning and land uses for the property, they would like to see the same zoning apply to 204 Harper Ave, so all business-related decisions and operations fall under the same zoning guidelines.

For consistency and for the purpose of redevelopment it is best practice for the entirety of a property to be within the same zoning district. Redevelopment of the property would require the recombination of the property. One of the standards for creating zoning districts is to follow plotted lot lines. Guidance for the interpretation of zoning district boundaries comes from Sec. 40-45 (attachment 1) of the zoning ordinance. Previously 204 Harper Avenue had a single-family structure with the adjacent common ownership parcels was formally the Welcome Inn. The adjacent uses to the west is a single-family, to the north is a multi-family structure and across the street to the south is a Hotel.

History:

The property is has been in the same ownership for over 50 years. The single-family house and Welcome Inn was built in the 30's. In 2023 the structures were demolished after a new hotel was approved for the site in 2022. The hotel has not started construction and the property was recently purchased. The Permit for the hotel authorization will expire September 14, 2024.

The 1984 Zoning Ordinance and Zoning Map had both properties, of 204 Harper Ave and the property where the Welcome Inn was in the B-1: Central District. In 2000, 204 Harper Ave was rezoned to MX and the Welcome Inn property was rezoned to CBD.

District Purpose and Permitted Uses:

The MX, Mixed Use Transitional District is established to provide for an area of transitional land uses between intensified use districts or elements and residential districts. This district includes an area of mixed land uses between the intensive, commercial, central part of Town and the quiet residential areas and may also be employed as a transitional area between busy major thoroughfares and quieter residential areas. Permitted uses include a mixture of single-family homes, two-family dwellings, and small-scale office and institutional uses. Small hotels and motels and multifamily housing of modest density and size may also be permitted in this district.

The CBD, Central Business District is established to accommodate, protect, rehabilitate, and maintain the traditional central business district and boardwalk area of the Town. This area accommodates a wide variety of pedestrian oriented, commercial and service activities, including retail, business, office, professional financial, entertainment, and tourism. The regulations of this district are intended to encourage the use of the land for concentrated development of permitted uses while maintaining a substantial relationship between land uses and the capacity of the Town's infrastructure.

The Mixed Use District does allow for certain business uses like standard restaurants and eateries, general retail, offices, and mixed use commercial-residential but does not allow for more intense uses like bars and taverns, or commercial parking lots. A complete list of the uses allowed in both districts is shown on Attachment 2. The MX district is considered residential, and residents must abide by the standards of the noise ordinance for residential areas of a daytime level of 65dB(A) between the hours of 7:00am and 11:00pm, and the nighttime level of 55dB between the hours of 11:00pm and 7:00am. The Commercial district allows for a 75dB(A) daytime level between 7:00am and 11:00pm, and 65 dB(A) between the hours of 11:00pm and 7:00am, except on Friday and Saturday, the daytime levels shall remain in effect until midnight.

Dimensional Standards:

<i>Zoning District</i>	<i>Primary Permitted Uses</i>	<i>Min. Lot Size</i>	<i>Min. Lot Width⁵</i>	<i>Min. Front Yard</i>	<i>Min. Rear Yard</i>	<i>Min. Side Yards (Corner Lot-Min 12.5 ft.)⁵</i>	<i>Max. Density</i>	<i>Max. Height</i>	<i>Max. Lot Coverage</i>
MX	Mixed Use	5,000 sq. ft.	50 ft.	20 ft.	10 ft. ³	7.5 ft. ³	17 units/acre	50 ft.	40%
CBD	Commercial Uses and Services, Entertainment	None	None	None	None, or same as abutting residential	None, or same as abutting residential	NA	50 ft. ⁴	None

					use or district	use or district			
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The MX Zoning District requires setbacks and has a maximum lot coverage in all areas throughout the district. Much of the CBD has no setback or lot coverage requirement. Although the dimensional standards for both districts are different, properties in the CBD areas must have a rear and side setback that is the same as the residential zoning district it abuts. Landscaping standards are also required if a CBD parcel is adjacent to residential to mitigate the transition between the business and residential use.

Land Use Plan

The property is shown on the Future Land Use Map as Mixed Use Commercial and is described as a higher density area with a mix of uses, within the district and individual buildings. Residential uses allowed only on upper stories; ground floor encouraged to be active. 4-5 story structures possible, unless adjacent to low or medium density residential with attractive street facades. NCGS 160D states that if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required.

ACTION REQUESTED:

Consider recommending approval or denial of a zoning map amendment to rezone 204 Harper Ave from the MX zoning district to the CBD.

Staff recommends approval of the rezoning as proposed.

MOTION:

Approval - whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine that the adoption of the Zoning Map Amendment for 209 Charlotte Avenue is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans.

A statement approving the proposed Zoning Map Amendment and declaring that this also amends the plan, to meet the vision of the community taken into consideration in the zoning amendment.

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

ATTACHMENTS:

1. Sec. 40-45. Rules for interpretation of district boundaries.
2. Sec. 40-72. Table of permissible uses.

ATTACHMENT 1

Sec. 40-45. Rules for interpretation of district boundaries.

The Zoning Administrator shall decide the exact location of any zoning district boundary lines whenever uncertainty exists about the boundary lines shown on the official zoning maps, subject to appeal to the board of adjustment provided for in article XVI of this chapter. The determination of the exact location of a zoning district boundary shall be based upon the following rules:

- (1) Boundaries indicated as approximately following or within a street, alley, or railroad right-of-way, or utilities (electrical, gas, water main, etc.) easement shall be construed to be in the center of such right-of-way easement;
- (2) Boundaries indicated as following shore lines shall be construed to follow such shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, creeks, or other bodies of water shall be construed as following such centerlines;
- (3) Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines;
- (4) Boundaries indicated as approximately following Town limits shall be construed as following Town limits; and
- (5) Boundaries indicated as parallel to or extension of features indicated in subsections (1), (2), (3) and (4) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (6) In the event that a district boundary line on the zoning map divides a platted lot held in one ownership on the date of passage of the ordinance from which this chapter is derived, each part of the lot so divided shall be used in conformity with the district in which such part is located.

(Code 1986, app. A, § 2.3; Ord. No. 00-463, 10-10-2000)

ATTACHMENT 2

Sec. 40-72. Table of permissible uses.

P = Permitted.

CZ = May be permitted with conditional zoning

S = May be permitted by special use permit

USES OF LAND	MX	CBD
Residential Uses		
Two-family dwellings	P	

Manufactured home, on standard, single-family lot (See section 40-261)		
Multifamily dwellings (See section 40-260) Units <= 4	P	
Multifamily dwellings (See section 40-260) Units > 4	CZ	
Planned unit development, residential (See article XII of this chapter) Units <= 4	P	
Planned unit development, residential (See article XII of this chapter) Units > 4	CZ	
Single-family detached	P	
Attached single-family residential	P	
Accessory Uses		
Accessory uses and structures, including garages, carports, etc. (See sections 40-261, 40-548)	P	P
Home occupations, customary (See sections 40-261, 40-548)	P	P
Swimming pools, private (See sections 40-261, 40-548)	P	
Swimming pools, public (See sections 40-261, 40-548)	CZ	CZ
Nonresidential Uses		
Adult entertainment establishment (See		

sections 40-261, 40-548)		
Aircraft takeoff and landing zone (See sections 40-261, 40-548)	Prohibited	
Animal care facility		
Animal care facility with outdoor area (See section 40-261)		
Arcades, rides, games in enclosed buildings		P
Art galleries (See section 40-548)	P	P
Auctions sales		P
Automobile repair garages, including engine overhauls, body and paint shops and similar operations in enclosed buildings (See sections 40-261, 40-548)		
Automobile service stations and convenience stores		P
Bakeries, retail, off-premises sales		
Bakeries, retail, on-premises sales only		P
Banks/financial institutions		P
Barber shops		P
Bed and breakfast inn (See section 40-261)	CZ	CZ
Boat and personal water craft (PWC) sales and rental		P
Body piercing facility		
Bus terminal		P

Cafeteria or dining room for employees of permitted uses		
Car wash (See section 40-548)		
Cemeteries, public and private (See section 40-261)		
Churches/places of worship/parish houses	CZ	P
Commercial indoor recreation, such as bowling alleys, etc.		
Commercial outdoor recreation, such as miniature golf, golf driving ranges, par-3 golf courses, go carts and similar enterprises (See section 40-261)		
Contractors offices, no outdoor storage		P
Day nurseries, day care centers and preschools (See sections 40-261, 40-548)	CZ	CZ
Distillery		P
Drop-in child care providers (See sections 40-261, 40-548)	P	P
Dwelling for caretaker on premises where employed		
Drive-in/thru facility		
Dry stack storage facilities		
Ear piercing Facility		
Eating and/or drinking		

establishments (See section 40-261)		
Bars and taverns (See section 40-261)		CZ
Standard restaurants and eateries	P	P
Exhibition buildings		CZ
Exterminator service business offices, no outdoor storage of materials or equipment		P
Fire stations, emergency services, nonprofit	CZ	CZ
Fishing piers; public and private		P
Funeral homes		P
Furniture stores		
Gardens, arboretums and greenhouses, items for sale		P
General retail sales	P	P
Government/Public facilities and utilities (See section 40-261)	P	P
Ice-cream stores	P	P
Laundries and dry cleaning, delivered by customers		P
Laundromats, self-service		P
Libraries	P	P
Live entertainment complexes in enclosed buildings		CZ
Manufacturing incidental to retail business, sold on premises only, maximum of five		P

manufacturing operators		
Marinas, docks and/or piers, private		
Marinas, docks and/or piers, public or commercial		P
Medical and dental clinics	P	P
Meeting facilities	CZ	P
Mixed use commercial-residential (See section 40-261)	P	P
Motels and hotels	CZ	CZ
Motels and hotels, operated with a marina		
Multi-use facility	P	P
Municipal parking decks		P
Museums		P
Nursery, garden and landscaping, display and sales		
Offices, public, private or civic	P	P
Outdoor amusements, carnival and rides		CZ
Parking lot, commercial—permanent (See section 40-261)		P
Parking lot, Town operated (See section 40-261)	P	P
Private parking decks		CZ
Parking and loading areas serving uses in the same zoning district, on same or contiguous lot (See	P	P

article V of this chapter)		
Parking and loading areas serving uses in the same zoning district, on non-contiguous lot (See article V of this chapter)	CZ	P
Pet shops and pet supply stores		P
Photographic studio	P	P
Planned unit development, business (See article XII of this chapter)		CZ
Post offices		P
Postal mailing services, commercial		P
Printing/reprographics		P
Radio, computer, television and appliance repairs and rental service		P
Rental of any item, the sale of which is permitted in the district		P
Rental of golf carts, mopeds, and scooters (See section 40-261)*	P	P
Repair of any item, the sale of which is permitted in the district		P
Rooming house	Prohibited	
Schools, commercial for specialized training		P
Schools, public	CZ	CZ
Schools, private, general instruction	CZ	CZ
Seafood production and/or processing		

and/or dockage, wholesale and retail		
Shopping centers/big box	CZ	CZ
Spa health club		P
Studios, artist, designers, gymnasts, musicians, sculptures	CZ	P
Tailor shops	P	P
Tattoo studios (See sections 40-261, 40- 548)		
Telephone exchange		P
Tennis courts, commercial (See section 40-261)		CZ
Tennis courts, private (See section 40-261)	CZ	CZ
Theaters, in enclosed structure		P
Theaters, open air drama		CZ
Trailer, business		CZ
Trailer park, travel (See section 40-548)		
Trailer, temporary construction (See section 40-261)	P	P
Utilities, private (See section 40-261)	CZ	P
Vehicle sales lot and rental lot (See section 40-261)		
Water oriented businesses		CZ
Wholesale sales		P
Wine and beer shops (Retail/Off-Premise)		P
Wireless telecommunications facilities	See article X of this chapter	

Manufacturing, Assembly and Processing (See section 40-261)		
Beverages, bottling works		
Breweries (See section 40-261)		P
Flammable liquid storage, >1,000 gallons aboveground only (See section 40-261)		
General assembly and repair		
Ice manufacture, sales and storage		
Manufacturing and assembly, processing, and packaging, except those uses identified in section 40-261		
Planned development, industrial		
Sign painting and sign fabrication		
Storage yard, outdoor (See section 40-261)		
Recreational vehicle/boat storage, yard (See section 40-261)		
Towing service impound yard		
Warehouses, storage. Large and mini		
Woodworking shops		

* **Note:** Rental of these items may be permitted in the designated zoning districts as an accessory use to other permitted commercial uses if parking and other standards can be met.

Amendment Number: R24-01



PETITION FOR A ZONING MAP AMENDMENT

IMPORTANT: Supplementary information required as part of petition to be included:

Completed rezoning petition. For general use requests: The petition must be signed by the petitioner. Proof of compliance with GS 160A-383 regarding third party notification is required.

Adjacent Property Owners Map. A copy of the area as depicted on the Zoning Map which shows subject property (outlined in bold) and other surrounding properties within 100 feet of the subject property. Please label the names of the property owners directly affected by the zoning map amendment and those adjacent to or within 100 feet (excluding right-of-way) of the request.

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for the schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings. **Fee: to be submitted with application in accordance with the Town's annually adopted Rates and Fee Schedule**

- Minor Rezoning Rezoning of property less than 1 acre in size.
- Major Rezoning Rezoning of property one acre or greater in size.

Petitioner

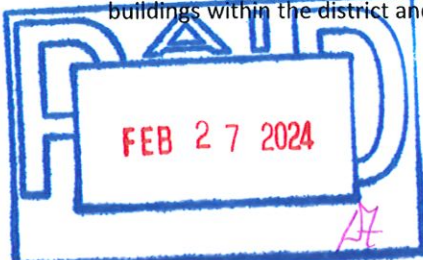
Petitioner's Full Name: SALBC, LLC Phone #: (828) 290 3875
 Street Address: 120 Chadwick Ave # 19
 City: Hendersonville State: NC Zip: 28792
 Email: sallyatsts@gmail.com

Requested Zoning Map Change

Address(s) of Requested Site: 204 Harper Ave C. Beach
 Property Identification Numbers (PIN) R09006-002-006-000
 Acreage/Sq. Ft: .77 acres Existing Zone: MXR Requested Zone: CBD
 Signature of Petitioner: Sally Stundant Date: Feb 23, 2024

PURPOSE OF ZONING DISTRICTS

The petitioner seeks to show that the fundamental purposes of zoning as set forth in the N.C. enabling legislation would be best served by changing the zoning classification of the property. Among the fundamental purposes of zoning are: (1) to lessen congestion in the streets; (2) to provide adequate light and air; (3) to prevent the overcrowding of land; (4) to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; (5) to regulate in accordance with a comprehensive plan; (6) to avoid spot zoning; and (7) to regulate with reasonable consideration to the character of the district, the suitability of the land for particular uses, the conservation of the value of buildings within the district and the encouragement of the most appropriate use of the land throughout the Town.



PETITION FOR A ZONING MAP AMENDMENT

PETITIONER'S STATEMENTS: This section is reserved for the petitioner to state factual information in support of the rezoning request. Any comments should be typed or written in block print on a separate piece of paper.

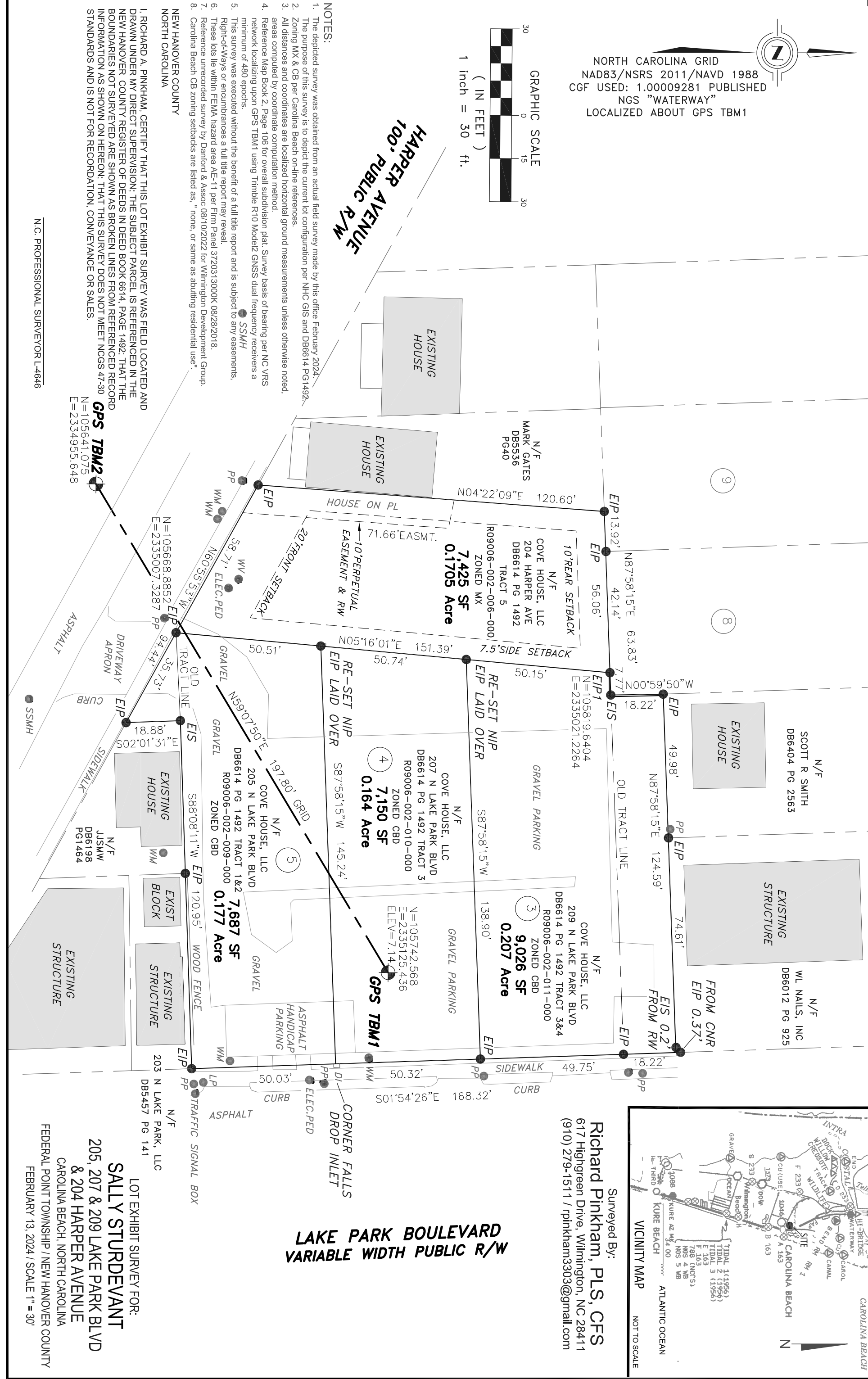
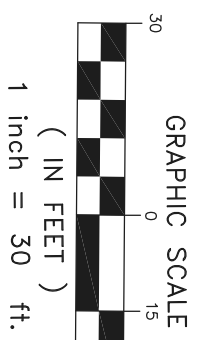
1. Please state the consistency of the proposed zoning map amendment with the Town's Land Use Plan and any other applicable *Town*-adopted plan(s).
2. Please describe the compatibility of the proposed rezoning with the *property* and surrounding area.
3. Please discuss the benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.
4. Please explain the public need for additional land to be zoned to the classification requested.
5. Please discuss the impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.
6. Please include a description of the existing zoning patterns (zoning districts including overlay districts) and existing built environment (densities, building heights, setbacks, tree cover, buffer yards).
7. Include any additional arguments on behalf of the map amendment requested.

Petition For A Zoning Map Amendment:

1. The four lots that connect to the east of the proposed change are all zoned CBD.
2. This will bring all four parcels of this tract into one zoning type instead of 75% of the parcel in the CBD and 25% in the Mixed Use.
3. This will consolidate the parcel as all one zoning type. There are no detriments known.
4. This will unify this tract of land and give more consistency as per the Land Use Plan.
5. No impacts due to this rezoning.
6. Two lots that touch this parcel are Mixed Use and the other 4 or 5 parcels are all CBD. This will bring more unity to the parcel and the area surrounding it.
7. This is in compliance with the Land Use Plan



NORTH CAROLINA GRID
 NAD83/NSRS 2011/NAVD 1988
 CGF USED: 1.00009281 PUBLISHED
 NGS "WATERWAY"
 LOCALIZED ABOUT GPS TBM1



NOTES:

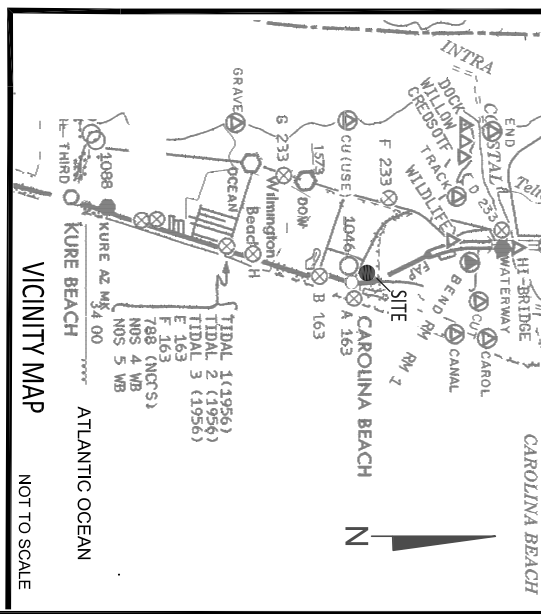
- The depicted survey was obtained from an actual field survey made by this office February 2024.
- The purpose of this survey is to depict the current lot configuration per NHC GIS and DB6614 Pg 1492.
- Zoning MX & CB per Carolina Beach on-line references.
- All distances and coordinates are localized horizontal ground measurements unless otherwise noted, areas computed by coordinate computation method.
- Reference Map Book 2, Page 108 for overall subdivision plat. Survey basis of bearing per N.C.VRS network localizing upon GPS TBM1 using Trimble R10 Modem2 GNSS dual frequency receivers a minimum of 480 epochs.
- Right-of-Way was established without the benefit of a full title report and is subject to any easements.
- Right-of-Way was established a full title report.
- Reference unrecorded survey by Dandorf & Assoc. 08/10/2022 for Wilmington Development Group.
- Carolina Beach CB zoning setbacks are listed as, "none, or same as abutting residential use."

NEW HANOVER COUNTY
NORTH CAROLINA

1. RICHARD A. PINKHAM, CERTIFY THAT THIS LOT EXHIBIT SURVEY WAS FIELD LOCATED AND DRAWN UNDER MY DIRECT SUPERVISION; THE SUBJECT PARCEL IS REFERENCED IN THE NEW HANOVER COUNTY REGISTER OF DEEDS IN DEED BOOK 6814, PAGE 1492; THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES FROM REFERENCED RECORD INFORMATION AS SHOWN ON HEREON; THAT THIS SURVEY DOES NOT MEET NCGS 47-30 STANDARDS AND IS NOT FOR RECORDATION, CONVEYANCE OR SALES.

GPS TBM2
 N=105641.075
 E=2334955.648

N.C. PROFESSIONAL SURVEYOR L-4646



LAKE PARK BOULEVARD
VARIABLE WIDTH PUBLIC R/W

Surveyed By:
Richard Pinkham, PLS, CFS
 617 Highgreen Drive, Wilmington, NC 28411
 (910) 279-1511 / rpinkham3303@gmail.com

LOT EXHIBIT SURVEY FOR:
SALLY STURDEVANT
 & 205 LAKE PARK BLVD
 & 204 HARPER AVENUE
 CAROLINA BEACH, NORTH CAROLINA
 FEDERAL POINT TOWNSHIP / NEW HANOVER COUNTY
 FEBRUARY 13, 2024 / SCALE 1" = 30'



AGENDA ITEM COVERSHEET

PREPARED BY: Haley Moccia, Planner

DEPARTMENT: Planning &
Development

MEETING: Planning & Zoning Commission – February 8th, 2024

SUBJECT: **Text Amendments** to amend Chapter 40:
Sec. 40-73. - Dimensional standards for the various zoning districts,
Sec. 40-74. Dimensional standards for lots and principal structures, and
Sec. 40-426. - Reconstruction, maintenance, full or partial demolition and
renovation of nonconforming situations.

Applicant: North Pier Holdings, LLC.

BACKGROUND:

The applicant, North Pier Holdings, LLC., is applying for text amendments to exceed lot coverage for the addition of a riser room for fire suppression and to allow an elevator to exceed the 50' height limitation for three zoning districts.

The applicant owns 1800 Canal Drive, which is located within the R-1 Zoning district. The condominium structures located on this lot were constructed beginning in 1984 and 1985 and consist of two (2), cosmetically attached but structurally independent, three-level, piling-supported wood frame buildings. Combined, the structures contained 42 individual residential units. To date, a building permit has been issued for the renovation and repair of the buildings and to add four (4) penthouse units to the top of building 2, the reconstruction of the breezeways, and the relocation of the elevators and staircases. The proposed number of units overall decreased from 42 units to 40 units.

The reason for the proposed text amendments is due to complications during the construction process and the existing nonconforming status of the building. The applicant added the 4th story onto one of the buildings which increases the structure height from the existing 37' to right at 50'. Due to the negligence of the professional architect, it was realized after the penthouses had been added, that the elevator shaft would need to exceed 50' to be able to service the 4th floor penthouses. The addition of a riser room was needed to be able to install the required sprinkler system. The applicant was given the option by staff to reconfigure any demoed square footage and reallocate the demoed square footage into other additions as long as they did not exceed the original existing lot coverage.

PROPOSAL:

Height Exception Text Amendments:

The applicant proposes changing this section to allow the height of a structure to exceed the maximum height allowed by the zoning district for multi-family structures, if they have more than ten (10) units, in the R-1, MF, and T-1 zoning districts. The height allowance would pertain specifically to the installation or expansion of an elevator (See Attachment 2).

Lot Coverage Text Amendments:

The text amendments would allow exceptions to exceed the lot coverage maximum for all zoning districts (See Attachment 2). This exception to lot coverage is specifically for multi-family structures with more than ten (10) units to accommodate riser rooms for fire suppression equipment. The size of the riser room allowed would be determined by the manufacturer spec sheets for the riser equipment and must be certified by a professional engineer.

HISTORIC CONSIDERATIONS:

Height Ordinance:

Historically, Carolina Beach, prior to 2002, allowed a building height of 35' with an additional allowance for roof pitch. In 2002, Carolina Beach Town Council changed the allowable building height to no more than 50' (including roof pitch) in some zoning districts for uniformity and ease of ordinance implementation by town staff. The Town Council agreed anything above 50 feet will require sprinkler systems and must be reviewed and approved under a conditional use permit by Town Council.

Lot Coverage Ordinance:

The lot coverage limitations for the various zoning districts have been unyielding ordinances, established well before the 2000s. The lot coverage limitations vary depending on the zoning district and can range from 40% in most zoning districts (residential and some commercial) up to 60% for the Highway Business zoning district and 100% for the Central Business District.

LAND USE PLAN:

All proposed text amendments are not in general conformity with the Town's 2020 Land Use Plan.

The building height text amendment proposals are in opposition of the Redevelopment section of the 2020 Land Use Plan – "Increased building heights (especially in or near the downtown area) may conflict with the character of existing areas." Additionally, in the Family Friendly Community section of the Land Use Plan, lower structure heights are viewed positively as a contributing factor to a family-friendly community.

The lot coverage text amendments are also in opposition to the Community Goals section of the Land Use Plan. Goal #4 states a desire of the community to reduce overall nonconformities in the town, but also respect existing uses and entitlements, and the rebuilding of structures. The lot coverage text amendments would allow all buildings, including nonconforming buildings, to exceed their current lot coverage for the addition of a riser room. In this specific situation, the building directly impacted by the approval of the lot coverage text amendments is considered nonconforming. The Zoning district in which the parcel is located allows a maximum lot coverage of 40%. The current lot has a lot coverage of 47%. Proposing expansions to lot coverage for an already non-conforming structure would not adhere to the intent of Goal #4 in the Land Use Plan.

STAFF CONCERNS:

Building Height Text Amendments (See Attachment - 2):

Sec. 40-73. - Dimensional standards for the various zoning districts. – (9)

Staff Concerns:

1. Directly contradicts the historical standard for building height being limited to 50', with exception to the CBD.
2. This would allow other buildings to take advantage of the allowance of adding another floor to their building and then using the text amendment to breach the 50' height limitation for elevators. There are currently 42 (11 + unit) buildings located in the R-1, MF, and T-1 zoning districts. These existing 42 multi-family buildings could potentially take advantage of the proposed height allowance.
3. Staff understands the applicant would like to include limitations on which structures can take advantage of this text amendment but using "more than 10 units" as a limiting factor is an arbitrary number. As stated above, there are 42 buildings consisting of more than 10 units. Additionally, there are a total of 81 multi-family buildings consisting of anywhere from 3-10 units. It would be difficult for staff to explain why an 11-unit building can increase the height of their elevator and not a 10-unit building.
4. Anything over 50' in the current zoning ordinance is required to be approved by conditional zoning. The ordinance they propose would give that power to staff to permit by right.

Sec. 40-74. Dimensional standards for lots and principal structures.

Staff Concerns:

1. The removal of "yard requirements" above is supported by Town staff because the term is not utilized and will be removed from the ordinance through the current Unified Development Ordinance proposal.
2. Staff also support the removal of the table footnote #2 in the table.

Lot Coverage Text Amendments:**Sec. 40-73. - Dimensional standards for the various zoning districts – (12)****Staff Concerns:**

1. The current zoning ordinance is very strict with maximum lot coverage and does not allow any expansions no matter the situation. The applicant's text amendment would allow staff the power to permit this lot coverage exception by right.
2. It does not address the upper floor usage of the space the riser room below occupies. The riser room equipment usually occupies a first story enclosure and then the stories above only need a small area (usually 4'x4') for standpipes. These standpipes supply water vertically to all sprinkler systems installed on each floor. The remaining floors above the riser room are usually used for closet storage because the footprint space is already allocated by the riser room on the 1st floor and there are empty rooms above the riser room because the standpipes take up a much smaller space. Therefore the exception of lot coverage for riser rooms also allows other uses for the unused area above the riser room level.
3. Staff understands the applicant would like to include limitations on which structures can take advantage of this text amendment but using "more than 10 units" as a limiting factor is an arbitrary number.

Sec. 40-426. Reconstruction, maintenance, full or partial demolition and renovation of nonconforming situations.**Staff Concerns:**

1. There is no need for this text amendment because the lot coverage allowance was added to Article III – Sec. 40-73. Text amendment.

OPTIONS:

1. Applicant's amendments to allow height exception and lot coverage exception.
2. Staff's recommended amendments (See Attachment - 3)
3. Leave the ordinance as is.

RECCOMENDATION:

If the commission does consider changing the ordinance, staff recommends approval of Option 2.

ACTION REQUESTED:

Consider recommending approval or denial of the text amendment.

MOTION:

Approval –to amend:

Building Height:

- Sec. 40-73. - Dimensional standards for the various zoning districts.
- Sec. 40-74. Dimensional standards for lots and principal structures.

Lot Coverage:

- Sec. 40-73. - Dimensional standards for the various zoning districts
- Sec. 40-426. Reconstruction, maintenance, full or partial demolition and renovation of nonconforming situations.

Denial –to amend:

Building Height:

- Sec. 40-73. - Dimensional standards for the various zoning districts.
- Sec. 40-74. Dimensional standards for lots and principal structures.

Lot Coverage:

- Sec. 40-73. - Dimensional standards for the various zoning districts
- Sec. 40-426. Reconstruction, maintenance, full or partial demolition and renovation of nonconforming situations.

ATTACHMENTS:

Attachment 1 – Updated Text Amendment Application and original Text Amendment Application

Attachment 2 - Applicant Recommended Text Amendments

Attachment 3 - Staff Recommended Text Amendments



PETITION FOR A TEXT AMENDMENT

Petitions shall be submitted for review to the Department of Planning and Development located at 1121 N. Lake Park Blvd., Carolina Beach, NC 28428. Only complete petitions will be processed.

PETITIONER

Petitioner's Full Name: North Pier Holdings, LLC Phone #: (____) - ____ - ____

Street Address: 6316 Marywood Drive

City: Wilmington State: NC Zip: 28409

Email: sam@equitaslp.com

REQUESTED TEXT AMENDMENT

Town Code Section(s) Requested to be Amended:
Sections 40-73, 40-74 and 40-426(b) and (c)(7)

Please provide a general proposal for the amendment to the Town Code Section(s) stated above which you believe will result in improved regulations for all the residents of the Town of Carolina Beach

A proposal of the text amendment is attached. This proposal allows flexibility in dimensional requirements for the renovation of existing structures when the addition of infrastructure is for the addition/renovation of an elevator or fire suppression equipment.

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or a representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for a schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

I understand that the \$350 fee for review is nonrefundable.

Signature of Petitioner: _____ Date: _____

Amendment Number: _____



PETITION FOR A TEXT AMENDMENT

Petitions shall be submitted for review to the Department of Planning and Development located at 1121 N. Lake Park Blvd., Carolina Beach, NC 28428. Only complete petitions will be processed.

PETITIONER

Petitioner's Full Name: North Pier Holdings, LLC Phone #: (____) - ____ - ____

Street Address: 6316 Marywood Drive

City: Wilmington State: NC Zip: 28409

Email: sam@equitaslp.com

REQUESTED TEXT AMENDMENT


Town Code Section(s) Requested to be Amended:
Section 40-74 and Section 40-426(b) and (c)(7)

Please provide a general proposal for the amendment to the Town Code Section(s) stated above which you believe will result in improved regulations for all the residents of the Town of Carolina Beach

A proposal of the text amendment is attached. This proposal allows flexibility in dimensional requirements for the renovation of existing structures when the addition of infrastructure is determined by the zoning administrator to promote public health, safety, accessibility, and/or general welfare.

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or a representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for a schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

I understand that the \$350 fee for review is nonrefundable.

Signature of Petitioner: 
Jeff O'Brien (Jan 2, 2024 14:37 EST)

Date: 02/01/2024






Text Amendment Application

Final Audit Report

2024-01-02

Created:	2024-01-02
By:	Kate Nevins (kate@equitaslp.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAATkDHNOUUxNVZv1uhc6ybSlivzFneFjWD

"Text Amendment Application" History

-  Document created by Kate Nevins (kate@equitaslp.com)
2024-01-02 - 7:33:39 PM GMT
-  Document emailed to Jeff O'Brien (jobrienproperties@gmail.com) for signature
2024-01-02 - 7:33:43 PM GMT
-  Email viewed by Jeff O'Brien (jobrienproperties@gmail.com)
2024-01-02 - 7:37:49 PM GMT
-  Document e-signed by Jeff O'Brien (jobrienproperties@gmail.com)
Signature Date: 2024-01-02 - 7:37:59 PM GMT - Time Source: server
-  Agreement completed.
2024-01-02 - 7:37:59 PM GMT

ATTACHMENT – 2: APPLICANT RECOMMENDED TEXT AMENDMENTS

Building Height Text Amendments:

Sec. 40-73. - Dimensional standards for the various zoning districts.

- (9) ~~Yard Requirements for existing structures exceeding maximum height regulations. Yards may be increased as a condition of approval for structures exceeding maximum height requirements. Where Multi-family structures in the R-1, MF, and T-1 zoning districts with more than ten (10) units are permitted to exceed the 50 feet maximum height regulation only when necessary for the installation or expansion of an elevator, the following shall apply:~~
- ~~a. The minimum required front yard shall be increased by one foot for each foot in height exceeding the maximum height requirements.~~
 - ~~b. The minimum required side yard shall be increased by one foot cumulatively for each foot in height exceeding the maximum height requirements.~~

Sec. 40-74. Dimensional standards for lots and principal structures.

Zoning District	Primary Permitted Uses	Min. Lot Size	Min. Lot Width ⁶	Min. Front Yard	Min. Rear Yard	Min. Side Yards* (Corner Lot — Min. 12.5 ft.) ⁴	Residential Max. Density	Max. Height	Max. Lot Coverage
R-1	Single-Family Two-Family	5,000 sq. ft.	50 ft.	20 ft.	10 ft.	7.5 ft.	15 units/acre	50 ft. ^{1,2}	40%
R-1B	Single-Family	5,000 sq. ft.	50 ft.	20 ft.	10 ft.	7.5 ft.	8.7 units/acre	50 ft. ¹	40%
R-2	Single-Family	7,000 sq. ft.	70 ft.	25 ft.	10 ft.	7.5 ft.	6.2 units/acre	45 ft.	40%
R-3	Single-Family	12,000 sq. ft.	80 ft.	25 ft.	10 ft.	7.5 ft.	3.6 units/acre	40 ft.	40%
C	Conservation District Single-Family	80,000 sq. ft.	200 ft.	30 ft.	20 ft.	20 ft.	0.5 units/acre	50 ft. ¹	15%
MH	Manufactured Homes Single-Family/Two-Family	5,000 sq. ft.	50 ft.	20 ft.	10 ft.	7.5 ft.	15 units/acre	50 ft. ¹	40%
MX	Mixed Use	5,000 sq. ft.	50 ft.	20 ft.	10 ft. ³	7.5 ft. ³	17 units/acre	50 ft.	40%

Table footnotes:

1. Portions of this district may be located in an overlay district as shown on the Town's official zoning map and listed as part of this section. Maximum height of this district may be different than listed.

2. See section 40-73(9), **yard requirements**, for structures exceeding maximum height regulations.
3. Front yard setback is 50 feet if abutting a major thoroughfare.
4. Landscaping buffer requirements in article VI of this chapter may be greater than the required side yard setbacks.

Zoning District	Primary Permitted Uses	Min. Lot Size	Min. Lot Width ⁶	Min. Front Yard	Min. Rear Yard	Min. Side Yards* (Corner Lot—Min. 12.5 ft.) ⁴	Residential Max. Density	Max. Height	Max. Lot Coverage
CBD	Commercial Uses and Services, Entertainment	None	None	None	None, or same as abutting residential use or district	None, or same as abutting residential use or district	NA	50 ft. ⁴	None
NB	Neighborhood Goods and Services	5,000 sq. ft.	50 ft.	20 ft.	10 ft.	7.5 ft.	8.7 units/acre	50 ft. ²	40%
HB	Highway Commercial	10,000 sq. ft.	100 ft.	30 ft.	15 ft., or 20 ft. if abutting a residential district	10 ft.	NA	50 ft. ²	60%
MB	Water-Oriented Businesses, Single-Family/Two-Family	10,000 sq. ft.	100 ft.	30 ft.	10 ft.	10 ft.	N/A ⁶	50 ft. ²	40%
T-1	Hotels and Motels 15 units or less	20,000 sq. ft.	100 ft.	20 ft.	10 ft. ³	7.5 ft.	32 units/acre	50 ft. ²	40%
	Hotels and Motels Greater than 15 units	25,000 sq. ft.	50 ft.				60 units/acre		
	Restaurants/Businesses	6,000 sq. ft.	50 ft.						
	Single/Multi-Family	6,000 sq. ft.	50 ft.				29 units/acre		
I-1	Industrial	None. (Min. district size: 5 acres)	None	30 ft. ³	None. *20 ft. if lot line abuts a residential lot or use ³	None *20 ft. if lot line abuts a residential lot or use ³	None	50 ft. ²	None

HOD	See underlying districts for use and dimensional requirements	N/A	N/A	N/A	N/A	N/A	N/A	45 ft.	N/A
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Table footnotes:

1. Portions of this district may be located in an overlay district as shown on the Town's official zoning map and listed as part of this section. Maximum height of this district may be different than listed.
2. See section 40-73(9), ~~yard requirements~~, for structures exceeding maximum height regulations.
3. Front yard setback is 50 feet if abutting a major thoroughfare.
4. In this district, the standard 50-foot building limitation may be exceeded for sprinklered structure and maximum building height shall be solely based on conditional zoning review.
5. Landscaping buffer requirements in article VI of this chapter may be greater than the required side yard setbacks.

Lot Coverage Text Amendments:

Sec. 40-73. - Dimensional standards for the various zoning districts.

(12) [Exceptions to lot coverage requirements. Multi-family structures with more than ten \(10\) units may exceed the maximum lot coverage requirements of the district to allow for structures to accommodate riser rooms for fire suppression equipment. Such additional lot coverage shall not exceed the minimum additional size required for a riser room by manufacturers specifications as designated by certified professional engineer.](#)

Sec. 40-426. Reconstruction, maintenance, full or partial demolition and renovation of nonconforming situations.

- (a) Except for fences, which are regulated by article VII of this chapter, nonconforming uses created by a change in regulations may continue to exist and shall be subject to all other provisions of this article.
- (b) Any building or structure for which normal repair, renovation, partial demolition and reconstruction or routine maintenance is proposed in an amount less than 50 percent of the current tax or certified appraised value of the building or structure, regardless of the reason for such repair or maintenance, shall be entitled to do so using the same building footprint and density with which the building or structure was originally constructed, provided the number of living units or nonresidential spaces are not increased and no additional nonconformities are created. [Notwithstanding the foregoing, lot coverage may exceed that of the original construction if the expansion of the lot coverage is directly attributable to the addition of improvements for fire suppression, including sprinkler systems.](#)
- (c) In the event normal repairs, renovations, full or partial demolition will result in new construction to a nonconforming structure exceeding 50 percent of the current tax or certified appraised value of the building or structure in any period of 12 consecutive months (except as otherwise allowed in subsection (e) of this

section), regardless of the reason for such repairs, renovations, full or partial demolition or maintenance, the owner shall be entitled to undertake new construction using the same building density with which the building or structure was originally constructed, provided that the following provisions are met:

- (1) The number of living units or non-residential spaces are not increased.
- (2) No additional nonconformities are created.
- (3) All current minimum setbacks are met for the zoning district in which the structure is located.
- (4) Maximum building height of the structure shall not exceed those of the zoning district in which it is located.
- (5) Landscaping and buffer requirements shall meet the minimum requirements of the zoning district in which it is located.
- (6) All parking requirements shall meet the minimum requirements of the district in which it is located.
- (7) Lot coverage shall not exceed that of the original construction that is being replaced. Notwithstanding the foregoing, lot coverage may exceed that of the original construction if the expansion of the lot coverage is directly attributable to the addition of improvements for fire suppression, including sprinkler systems.

ATTACHMENT – 3: STAFF RECOMMENDED TEXT AMENDMENTS

Building Height Text Amendments:

Sec. 40-73. - Dimensional standards for the various zoning districts.

(9) ~~Yard~~ Requirements for existing structures exceeding maximum height regulations. ~~Yards may be increased as a condition of approval for structures exceeding maximum height requirements.~~ Where structures are permitted to exceed the 50 feet maximum height regulation for an elevator shaft the following shall apply:

- ~~a. The minimum required front yard shall be increased by one foot for each foot in height exceeding the maximum height requirements.~~
- ~~b. The minimum required side yard shall be increased by one foot cumulatively for each foot in height exceeding the maximum height requirements.~~
- a. No changes have been made to the building height since the original construction.
- b. Permitted for multi-family structures in the R-1, MF and T-1 zoning districts with Conditional Zoning approval.
- c. To access habitable floors only (not to access roof top decks or other uses).

Lot Coverage Text Amendments:

Sec. 40-73. - Dimensional standards for the various zoning districts.

(12) Exceptions to lot coverage requirements. Multi-family structures may exceed the maximum lot coverage requirements of the district to allow for structures to accommodate riser rooms for fire suppression equipment. The following standards shall apply.

- a. Shall not exceed the minimum size required for a riser room by manufacturers specifications as designated by certified professional engineer.

Sec. 40-426. Reconstruction, maintenance, full or partial demolition and renovation of nonconforming situations.

Staff Recommends No change to this ordinance



AGENDA ITEM COVERSHEET

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

MEETING: Planning & Zoning Commission – March 14th, 2024

SUBJECT: Text Amendment to Chapter 40 Art. III. Zoning District Regulations, Art. V. Off-street Parking and Loading Requirements; Parking, and Art. IX. Development Standards for Particular Uses to amend standards for Wine and Beer Shops.

Applicant: Applicant: Neapolitan Enterprises, Inc.

BACKGROUND:

The applicant, Neapolitan Enterprise, Inc is proposing a text amendment to allow for Wine Shops and Beer Shops with on-premise alcohol sales as a use in the Marina Business (MB) District by right. The Wine and Beer shop on-premise use was adopted in April of 2023 after an amendment was submitted by a private business. Prior to that the ordinance only allowed for Wine and Beer Shops with retail and off-premise sales of alcohol only.

Proposal:

The applicant owns the Neapolitan located in the MB district (See map). The business currently has an off-premise wine and malt beverage permit. The applicant would like to apply for on-premise wine and malt beverage permit at that location. Neapolitan is currently permitted as a retail establishment. For allowances of on-premise wine and malt beverage the current ordinance categorizes the use as either a standard restaurant or bar in the Marina Business. Wine and Beer Shops are currently not allowed in the MB district.

Wine Shop:

The applicant proposes to add wine shop (on-premise) to the table of allowed uses. The current ordinance allows for wine shops (on-premise) in the CBD, HB and NB zoning districts. The ABC commission created a new allowance for a wine shop to have limited sales of on-premise consumption. Wine shops must comply with all ABC standards and obtain proper permits. Per NCGS 18B, wine shop permits authorize the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container and/or dispensed from a tap for consumption off the premises. The holder of the permit is allowed to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises

does not exceed forty percent (40%) of the establishment's total sale for any 30 day period. The limited consumption of on-premise wine would be subject to an audit by the ABC commission. Wine Shops (on-premise) are proposed to be permitted by right in the MB Districts.

Beer Shop:

The applicant would also like the ability to provide malt beverage on premise in the MB district. Beer shops would need to obtain an On-Premises Malt Beverage Permit to allow for the retail sale of malt beverages for consumption on and off premise. The ABC regulations do not have the same limitations for a Beer Shop as they do for a Wine Shop and would be allowed to offer malt beverage on-premise without any limitation or percentages to off-premise sales. The proposal is for Beer Shops to be permitted by right in the MB District. To reduce the impacts from the use on to adjoining properties, restrictions were adopted from for any outdoor or indoor areas to be from an adjacent property line or residential use. The applicant proposes to amend the standard to state any indoor or outdoor areas shall be located three times the minimum setback yard from any residential district

The text amendment adopted in April consisted of defining both uses. Beer Shops were defined as an establishment substantially engaged in retail sale of malt beverages on and off premises subject to the ABC Commission regulations. Wine Shops were defined as an establishment substantially engaged in retail sale of unfortified wine and fortified wine for consumption on and off premises subject to the NC ABC Commission regulations.

Parking

When the amendment was adopted in April Wine and Beer Shops were categorized under eating and drinking establishments. Under this category the Neapolitan would be a change of use from retail to an eating and drinking establishment. This is important because the change of use would trigger a different parking standard. Parking for retail is calculated 1 parking space per 200 sq. ft. of retail space. Parking for eating and drinking establishments are calculated by 1 space per 110 sq. ft.

The Neapolitan was issued a permit as a retail establishment in 2022. This is a grandfathered use as the previous use of the property, the Checkered Church operated as a retail establishment since the mid 90's. Because this would be considered a change of use the applicant is proposing to amend the parking calculation to specifically state that Wine and Beer Shops (Retail/Off-premise) is based off on the retail parking calculation while also amending the use table to be consistent.

Recommendation:

Staff have met with the applicant on what sections of the ordinance would need to be amended that would accomplish the goal of being able to have on premise wine and beer at their location. Also, staff has discussed with the applicant the concerns that are identified below for the Commission review.

- Wine Shops are treated differently by the state that limit on premise consumption, but Beer Shops do not have any limitations from ABC regulations or audits. The proposal is for Wine and Beer shops with on premise consumption to be permitted by right. By expanding the allowance to other areas of town it may undermined Bar regulations as they need a conditional zoning and have larger setback standards from residential districts (200 ft).
- Wine Shops by ABC regulations are treated as accessory to off-premise retail, but again Beer Shops do not have any ABC regulations for on premise consumptions and the impacts of parking could be similar to that of Bars.
- Currently if you are approved as a Bar you can be permitted to have mixed beverage, malt beverage and wine on-premises. The allowance would expand the way the town as treated alcohol permits with establishments being permitted by right for wine and beer. If an establishment would like to offer mixed beverage, then it would still need to be permitted as a bar.

Land Use Plan:

The Land Use Plan does not specifically address wine and beer shops, but the MB zoning district is classified as the Marina Commercial/Industrial Mixed Use. The desire uses are water-based commercial, service, and light industrial uses, and sometimes water-related businesses (such as restaurants). These businesses rely on water access, so structures are purpose-built and traditional maritime activities are common.

ACTION REQUESTED:

Consider recommending approval or denial of the text amendment.

MOTION:

Approval – to amend text amendment to Chapter 40 Art. III. Zoning District Regulations, Art. V. Off-street Parking and Loading Requirements; Parking, and Art. IX. Development Standards for Particular Uses to amend standards for Wine and Beer Shops.

Denial – to amend text amendment to Chapter 40 Art. III. Zoning District Regulations, Art. V. Off-street Parking and Loading Requirements; Parking, and Art. IX. Development Standards for Particular Uses to amend standards for Wine and Beer Shops.

Amendment Number: _____



PETITION FOR A TEXT AMENDMENT

Petitions shall be submitted for review to the Department of Planning and Development located at 1121 N. Lake Park Blvd., Carolina Beach, NC 28428. Only complete petitions will be processed.

PETITIONER

Petitioner's Full Name: Neapolitan Enterprises, Inc. (Paul & Erika Tully) Phone #: (847)- 910 _ 7092

Street Address: 800 Saint Joseph

City: Carolina Beach State: NC Zip: 28428

Email: tully@neapolitan3.com

REQUESTED TEXT AMENDMENT

Town Code Section(s) Requested to be Amended: Sec. 40-72 Table of Permitted Uses

Please provide a general proposal for the amendment to the Town Code Section(s) stated above which you believe will result in improved regulations for all the residents of the Town of Carolina Beach
Amend: Wine Shops (On-Premise) and Beer Shops (On-Premise) to permitted "P" in the MB-1 district.

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or a representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for a schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

I understand that the fee for review is nonrefundable.

Fee: to be submitted with application in accordance with the Town's annually adopted Rates and Fee Schedule

Signature of Petitioner: *Paul Tully* Date: 1/23/24

Sec. 40-150. Off-street parking standards.

(d) *Off-street parking space schedule.*

Types of Uses	Number of Required Parking Spaces
Business uses	
<u>Wine and Beer Shops (Retail/Off-premise)</u>	<u>1 per 200 sq. ft.</u>

Sec. 40-72. Table of permissible uses.

P = Permitted.

CZ= May be permitted with conditional zoning

S = May be permitted by special use permit

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	1-1
Wine and beer shops (Retail/Off- <u>On</u> premise)									p	<u>p</u>	p	<u>p</u>		
Wine Shop (On-premise)									p	p	p			
Beer Shop (On-premise)										p				

Sec. 40-261. Development standards for particular uses.

(o) *Eating and/or drinking establishments*

(4) Standards for wine shops (on-premise):

a. All wine shops shall meet all requirements of the ABC Permit.

(5) Standards for beer shops (on-premise):

a. All beer shops shall meet all requirements of the ABC Permit.

b. Any indoor or outdoor areas shall be located three times the minimum setback yard ~~for the from~~ any residential district ~~from any lot line and/or any residential use. The additional setbacks shall not apply to property lines adjacent to the right-of-way.~~

