

Joe Benson
Mayor

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ORDER GRANTING A CONDITIONAL USE PERMIT MODIFICATION

Location: 402 N. Lake Park Blvd.

Applicant: Pelican Point CB LLC

The Town Council of the Town of Carolina Beach, having held a quasi-judicial public hearing on **October 8, 2019** to consider the application submitted by Pelican Point CB, LLC for issuance of a Conditional Use Permit for a 36 unit multi-family condo building at 402 N. Lake Park Blvd ("Property"). At the hearing both the Town and the Applicant presented sworn testimony. The record included the following:

1. Application filed 8/25/19, dated by Pelican Point CB, LLC for a Conditional Use Permit which contained the site plan, and project narrative.
2. Staff Memorandum dated 10/1/19 summarizing the Application and Town Staff's position.
3. Power Point presentation presented on October 8, 2019.
4. The following persons offered sworn testimony: Planning Director Jeremy Hardison and Charles Poindexter for the Applicant.
5. Testimony by Jeremy Hardison and Charles Poindexter

Jeremy Hardison testified that:

1. The Property is zoned both Highway Business and Marina Business.
2. Existing improvements on the Property include a bulkhead and dock.
3. A 24 Foot entrance is proposed off Saint Joseph Street.
4. A 5 foot sidewalk will be installed adjacent to Saint Joseph Street which will tied into an existing sidewalk.
5. A dedicated 20 foot fire lane will be located on the north side of the proposed building and is a requirement for the fire department.
6. The applicant proposes forty-eight (48) parking spaces.
7. The dumpster will be enclosed.
8. A fire hydrant will installed.
9. Stormwater treatment will be on site.
10. A ten (10) foot landscape buffer is required
11. A monument sign at the entrance is proposed.
12. The maximum height of the building is 57 feet to the top of the elevator shaft.
13. Surface parking will be located in front and some parking will be underneath the building.
14. A swimming pool is proposed adjacent to the sound.
15. The CAMA Land Use Plan supports pedestrian use and interconnectivity to the marina and accessibility to the sound.
16. Staff recommends a condition of an easement for future expansion of the marina walk.
17. Staff recommends a stub out for interconnectivity with the property located to the South.

Charles Poindexter testified that:

1. Existing improvements on the Property include a bulkhead, floating dock and gazebo.
2. The proposed future boardwalk would require deconstruction of those improvements.
3. The future boardwalk would be located half in the swimming pool and half in the yard.
4. The CAMA setback is thirty (30) feet.
5. Giving up ten (10) feet of property to the Town does not sound like a very good idea to me.
6. Interconnectivity between the Property and the property to the South would create a safety concern.

After considering all the testimony and evidence presented, Council made the following findings of fact:

1. Pelican Point Development, LLC is the owner of a parcel located at 402 N. Lake Park Blvd. in Carolina Beach, NC.
2. The western portion of the property is zoned Highway Business (HB) and the eastern piece is Marina Business (MB-1).
3. The square footage property is 40,839 square feet.
4. The multi-family building will be on the MB-1 portion of the lot.
5. Multi-family uses are allowed in the MB-1 district with a CUP.
6. A portion of the parking will be located in the HB district and under the building. Parking areas located in other districts are allowed with the approval of a CUP.
7. CUP was issued on September 8, 2015 for a similar project by the applicant for 36 one bedroom units that expired on September 8, 2017, because construction had not started.
8. There are no density requirements in HB or MB
9. The proposed building height is 57' in height to the top of the elevator shaft. The ordinance and the 2007 Land use plan was amended to state that the building height may be permitted up to sixty (60) feet maximum with one additional foot on the required front setback and one additional foot added cumulatively to the required side setbacks for each additional foot.
10. The property is located in an AE 11 Floodzone.
11. A former private road (Lee's Ln) was purchased by Pelican Point Development, LLC and combined with 402 N. Lake Park Blvd.
12. The property is within a CAMA Area of Environmental Concern and will need a major CAMA permit.
13. The Town plans to extend an existing boardwalk adjacent to the sound.

After considering all the testimony and evidence presented, the Town Council makes the following CONCLUSIONS OF LAW:

With the inclusion of certain conditions, the Applicant met each of the following seven (7) specific and four (4) general standards:

Specific:

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

- (4) *Utilities*, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (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;
- (7) Required *yards* and other *open space* and preservation of existing trees and other attractive *natural features* of the land.

General Standards:

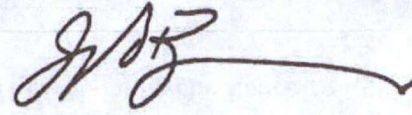
- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially 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

Therefore, it is ordered that the application for the issuance of a Conditional Use Permit by Pelican Point CB LLC be granted, subject to the following conditions:

- 1) The site plan corresponding to this approval was designed by CSD Engineering dated 8/27/19.
- 2) Prior to issuance of building permit, all local state and federal approval letters and final site plan shall be submitted, and approved by the Town of Carolina Beach.
- 3) Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission.
- 4) Landscaping waiver per approved site plan.
- 5) Outdoor artificial lighting fixtures shall be designed and positioned so that the point source of light from a light fixture is not directly visible from adjacent properties and/or right-of-ways.
- 6) Install a 5' Sidewalk adjacent to N. Lake Park Blvd
- 7) The storm water system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning.
- 8) Obtain CAMA permit prior to the issuance of a building permit.
- 9) Provide for a 20' fire lane on the north side of the building.
- 10) Provide an easement for future interconnectivity with the property to the south.
- 11) Provide a 10' access easement on the rear of the property for future expansion of the marina walk within the 30' CAMA setback area.
- 12) A plan that includes a grading schedule, and construction schedule shall be submitted to the Technical Review Committee.
- 13) Infrastructure and site plan as-builts shall be provided/approved prior to CO.
- 14) Work with the NCDOT and the Town to reconfigure the intersection of St. Joseph Street and North Lake Park Blvd.

15) The Conditional Use Permit is subject to expire on 10/8/21 if construction of the project has not started.

Ordered the 8th day of October, 2019.



Joe Benson, Mayor

CERTIFIED: Kimberlee Ward
Kimberlee Ward, Town Clerk

1-14-2020
Date