



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning & Development Director

DEPARTMENT: Planning & Development

MEETING: Planning & Zoning Commission – 9/9/2021

SUBJECT: **Conditional Zoning** to consider a Pickle Ball Court located at 209 Peninsula Dr in the R-2 zoning district. Applicant: Terry Wyckoff.

BACKGROUND:

The applicant, Terry Wyckoff has applied for a Conditional Zoning application to utilize a pickleball court located at 209 Peninsula Dr (Attachment 1 – Application) . This is the first application since the town converted the quasi-judicial Conditional Use Permit to the legislative Conditional Zoning process below is a description of the Conditional Zoning process.

Background on What is a Conditional Zoning District

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

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

1. The application's consistency to the general policies and objectives of the Town's CAMA Land Use Plan, any other officially adopted plan that is applicable, and the Zoning Ordinance.
2. The potential impacts and/or benefits on the surrounding area, adjoining properties.

3. The report of results from the public input meeting.

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

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

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

No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district. Any violation of the approved regulations and conditions for the district shall be treated the same as any other violation of this ordinance and shall be subject to the same remedies and penalties as any such violation.

Previous Discussions

On Thursday March 25th I received a phone call from the applicant on what he needed to do to build a pickleball court on his property on Peninsula Dr. I told him what that this would need a Conditional Zoning approval but to send me a drawing to review to better understand what he is proposing. On Monday March 29th I emailed the applicant on the specific process, the Conditional Zoning submittal requirements, and the submittal deadlines for the required meetings (Attachment 2) .

On May 5th I received a phone call from a concerned neighbor about if a pickleball court was allowed in a neighborhood district and that one is currently being install on 209 Peninsula Dr. That day I visited the site to verify that a pickleball court was in fact being constructed at 209 Peninsula Dr. owned by the applicant. A notice of violation was sent to the applicant for working without permits. On June 7th the town processed an application for Conditional Zoning to install a Pickleball Court on the property.

Zoning

The property is located in the R-2 zoning district. The purpose of this district to provide for single-family residential use and other compatible uses. The Intent Is to discourage any use which, because of its character, would not be in harmony with the residential community and which would be detrimental to the residential quality and value of the district. The R-2 zoning district allows for private tennis courts with the approval of a conditional zoning district. The ordinance does not mention pickle ball courts specifically, but where a proposed use is not listed in the Table of Permissible Uses, the Zoning Administrator may permit the proposed use upon a determination that the proposed use has an impact similar in nature, function, and / or duration similar to another permitted used listed in the Table of Permissible Uses. For vacant lots not occupied by a primary use (single-family structure) then an approval requires it to go through the Conditional Zoning District process.

The standalone pickleball court is 60' x 30' with a proposed 6' fence around the court. Three parking spaces are required to be delineated on site (see attachment 3 – site plan). An asphalt or concrete apron will be required from the edge of pavement to the property line. The property is located in an area of environmental concern because it is 75' from the high tide line. The State (CAMA) requires that no improvements can be located within 30' from the water. The property is in an AE 10 floodzone. The ordinance requires that provisions shall be made to compensate for impervious surfaces and drainage runoff containment, and meeting the requirements of the town. Lighting, if used, shall be shielded so as not to shine on adjoining properties. The applicant stated that the court will not be open at night.

As part of the application process a community meeting is required. The applicant held two meetings, because the first one failed to meet the notice requirements. Attached are the comments from those meetings. Based off of comments from the meeting the applicant can place conditions on the project to help mitigate the impacts and concerns from the neighboring properties(see Attachment 4-8 public meeting).

The applicant is proposing the following conditions.

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

Note: This area makes up approximately 198 units.

Staff's conditions

- Provide a 5' landscape buffer around perimeter of the property
- Must meet NC Building Code, CAMA and flood regulations.
- Delineate a minimum of three 9' x 18' parking spaces with a concrete or asphalt apron
- No outdoor lighting shall be installed.
- Must obtain proper permits to install the court, fencing and other improvements on site.

Land Use Plan

This area is located in the low density residential area and the primary use is single family detached residential such as many of the town's established neighborhoods.

The LUP does not specifically mention Pickle Ball courts. Although neighborhood amenities are a common element within developments most are installed at the binging stages of the development and not when they are 95% built out. Most are owned and managed by the HOA, but this is a different situation as this is owned by one family that is offering amenities to the selected communities. Special consideration shall be given to the impacts of the adjoining neighbors who expectations are that the property in this area would be developed as single-family homes.

ACTION REQUESTED:

Consider adopting a Pickleball Court as a primary use in a Conditional Zoning district located at 209 Peninsula Dr.

MOTION:

Approval - whereas in accordance with the provisions of the NCGS, the Commission does hereby find and determine that the adoption of the Conditional Use District to allow for a Pickleball Court located at 209 Peninsula Dr is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans and The potential impacts on the surrounding area, are mitigated by the approved conditions.

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