

**Conditional Zoning District**



**ORDINANCE NO. 22-1184**

**Ordinance Amending the Official Zoning Map of the Town to Rezone Property Containing 31,179 square feet of Land Located at 205, 207, 209 N Lake Park Blvd and 204 Harper Avenue, in Central Business District (CBD) and Mixed Use Transitional District (MX) to allow for a 59'4" 4-story Hotel with Bar with Conditional Zoning (CZ)**

**LEGISLATIVE INTENT/PURPOSE:**

WHEREAS, NCGS §§ 160D-102, 160D-108(d), 160D-603, and 160D-702 authorizes local governments to change or modify zoning boundaries within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS § 160D-601 and Article XVII, of the Carolina Beach Land Development Code.

**THEREFORE, BE IT ORDAINED:**

**SECTION 1:** The Official Zoning Maps of the Town of Carolina Beach are hereby amended by removing the hereinafter described tract of land from the present CBD and MX Districts and allow for a 59'4" 4-story Hotel with Bar with a Conditional District (CD) classification, said tract being more particularly described as follows:

Legal Description for Conditional Rezoning of 205, 207, 209 N Lake Park Blvd and 204 Harper Avenue

205 LAKE PARK BLV N  
66 5 PT 6 CAR BCH  
PARID: R09006-002-009-000

As more specifically described on Deed Recorded in Book 9907, Page 1320 of the New Hanover County Register of Deeds.

207 LAKE PARK BLV N  
CAROLINA BEACH

PARID: R09006-002-010-000

As more specifically described on Deed Recorded in Book 9907, Page 1320 of the New Hanover County Register of Deeds.

209 LAKE PARK BLV N  
66 3 + S 18 FT LOT 2 CAR

PARID: R09006-002-011-000

As more specifically described on Deed Recorded in Book 9907, Page 1320 of the New Hanover County Register of Deeds.

204 HARPER AVE  
66 PT 7 CAR BCH

PARID: R09006-002-006-000

As more specifically described on Deed Recorded in Book 9907, Page 1320 of the New Hanover County Register of Deeds.

**SECTION 2:** The following rules, regulations, and conditions shall apply to the property described in this ordinance

1. The use and development of the subject properties shall be in substantial accordance with the site plan submitted and approved which was prepared by Jefferson C Woodall dated 8/1/2022.
2. The use and development of the subject property shall comply with all regulations and requirements imposed by the Land Development Code, the Town of Carolina Beach Technical Standards and Specifications Manual and any other applicable federal, state or local law, ordinance or regulation, as well as any condition stated below.
3. Approval of this conditional district rezoning does not constitute technical approval of the site plan. Final approval by the Technical Review Committee and the issuance of all required permits must occur prior to release of the project for construction.
4. If, for any reason, any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.

5. The use and development of the subject property shall be in substantial accordance with the site plan as submitted and approved.
6. A state stormwater permit must be submitted and approved prior to issuance of a building permit.
7. Structure shall be limited to 59'4" in height. The walkable surface shall be limited to 50' in height. Prior to the issuance of a certificate of occupancy, certification by a surveyor must be submitted and approved by the Town.
8. Recombination Plat required before building permit can be issued.
9. Final project must be designed to provide the required 42 parking spaces and must comply with Article 7 of the Carolina Beach Zoning Ordinance.
10. Utilities must be installed in accordance with Town requirements.
11. 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-way.
12. The final project must be constructed to meet the fire code.
13. A Final site plan must include cross-section of paving detail and indicate on the site plan all areas to be paved.
14. Project must meet Landscape Buffer E requirement and install a 6-foot fence with 80% opacity adjacent to residential uses.
15. The applicant shall keep or relocate all existing Live Oaks as depicted on the site plan. Additional landscaping shall be added on the south side of the property between the building and property line.
16. The approval authorizes the use of 42-unit hotel and bar.
17. Utilize transparent railings and guardrails for the rooftop bar per elevation drawings.
18. An as-built and certification shall be provided that all improvements, including but not limited to zoning, paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
19. Prior to the issuance of a building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
20. Prior to the issuance of a building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
21. Approval of this site-specific vesting plan establishes a vested right under G.S. 160D-108. Unless terminated at an earlier date, the vested right shall be valid until 9/13/24.

**SECTION 3:** The Town Clerk and the Planning Director are hereby authorized and directed under the supervision of the Town Manager to change the Zoning Maps on file in the office of the Town Clerk and the Planning Division, to conform with this ordinance.

**SECTION 4:** That any person violating the provisions of this ordinance, including the approved site plan, shall be subject to the penalties set forth in ARTICLE XV of the Land Development Code.

**SECTION 5:** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 6:** If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 7:** That this ordinance shall be effective upon its adoption by Town Council, and the Town's receipt of written acceptance by the Applicant of all conditions adopted by the Town.

Adopted this 13<sup>th</sup> day of September 2022.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property owner Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

Albert L. Barbee, Mayor

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

Kimberlee Ward, Town Clerk