

**MINUTES OF THE REGULAR MEETING  
OF THE TOWN COUNCIL  
TOWN OF CAROLINA BEACH**

**January 10, 2006**

The Town Council of the Town of Carolina Beach met in regular session on January 10, 2006 at 7:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor, Bill Clark; Mayor Pro Tem, Alan Gilbert; Councilman, Joel Macon and Councilman, Jerry Johnson. Also present were Interim Town Manager, Bob Nicholl and Town Clerk, Lynn Prusa. Councilwoman, Pat Efrid, was absent.

Mayor Clark called the first 2006 town meeting to order and introduced Reverend Keith Grogg, Pastor of the Carolina Presbyterian Church, who led the invocation and pledge of allegiance.

The first item of business was Mayor Pro Tem Gilbert motioned to excuse Councilman Efrid from the January 10, 2006 meeting. **MOTION CARRIED UNANIMOUSLY.**

**ADOPT THE AGENDA**

Mayor Clark made a motion to adopt the agenda with the following changes:

Delete the following items from the agenda and table to February 14, 2006: Items #17 (Consider an amendment to Chapter 3, Animals and Fowl, Section 3.9; Item #18 (Consider a request to rezone 1121 N. Lake Park Boulevard from R-1 to HB; Item, #19 (Consider a request to amend Appendix A Zoning Ordinance, Article 23 Definition of “High Rise”); and Item #20 (Consider a request to amend Appendix A Zoning, Article 12 Development Standards for Particular Uses.).

Add to Consent Agenda Item #10(h) to set a public hearing date for the February 14, 2006 meeting at 7:30 p.m. or soon thereafter to consider an amendment to Chapter 9 Motor Vehicles & Traffic, Article VI Schedules, Schedule A Speed Limits to Reduce the Speed Limit on Spencer Farlow Drive.

Add items to Agenda: Consider Adopting a Resolution “Yes” to Beaches, and add a letter from Dale J. Cordial dated January 3, 2006 as part of the public hearing under Item #13; Item #21 consider additional applicants for appointment to the Board of Adjustment – Nicholas Nolan, Sr., H. (Bob) Shoemaker, Rob Pomeranz and James R. Rees. Under Item #22 consider additional applicants for appointment to the Planning and Zoning Commission: James G. McCulloch, James R. Rees, and Dr.

Jacqueline Jebo.

Motion made to adopt the agenda with the additions and deletions.

**MOTION CARRIED UNANIMOUSLY.**

***PRESENTATION BY CARL A. BYRD, SR., NEW HANOVER COUNTY DIRECTOR OF HUMAN RELATIONS COMMISSION***

Mayor Clark introduced Carl A. Byrd to speak about the upcoming Human Relations Commission's events.

Mr. Byrd invited the town's appointee to the New Hanover County Human Relations Commission, Pastor Paul Christ, and the City of Wilmington's appointee, Mr. Fred Johnson, to join him.

Mr. Byrd: We certainly appreciate the opportunity to come before the Town Council and ask for approval of the Fair Housing and Proclamation, which will take place in the month of February. The proclamation is to proclaim February as Human Relations Month and recognizing this year's theme: "Hand in Hand, Together We Can!".

You received an invitation, dated January 30, 2006 to our annual dinner meeting. You have the details of that and we certainly hope you will be able to attend.

Activities taking place in the month of February:

February 20 - Educational Component - Market Place Mall .

Where kids in New Hanover County, public and private schools, have been invited to demonstrate their interpretation of our theme, the theme being "Hand in Hand, Together We Can!"

February 25 - Annual Awards Human Relations Banquet, UNC-W (Warwick Center Ballroom) 7:00 p.m. The speaker will be Dr. Ed Paul, Counsel for Belize. He will address relationships and activities with New Hanover County and the City of Wilmington.

Mr. Byrd also introduced a member of his staff, Ms. Linda Moore.

Mayor Clark entertained a motion to adopt Proclamation 06-858. A motion was made by Mayor Pro Tem Gilbert to adopt Proclamation 06-858 recognizing Human Relations Month - February 2006 (*Exhibit 1*). The motion was seconded by

Councilman Johnson. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark read aloud the proclamation and presented it to Mr. Byrd .

### ***RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE***

Mayor Clark introduced Mark Fowler, Utility Maintenance Mechanic. Besides doing work out in the field, Mark is one of those guys that can cut your water on and then cuts it off, he could go either way with the water. On behalf of the Town Council, Mayor Clark recognized Mark for 5 years of dedicated service to the Town of Carolina Beach.

### ***REQUEST BY CHAMBER OF COMMERCE FOR BUDGET FUNDING FOR FY 2006/07***

Mayor Clark introduced Duke Hagestrom to speak about the Chamber of Commerce Budget Funding for 2005.

Mr. Hagestrom read the following letter from the Pleasure Island Chamber of Commerce: "The Town of Carolina Beach is named as the fiduciary agent of a portion of the Room Occupancy Tax (ROT) funds to ensure that such expenditures are used for the purpose of promoting Carolina Beach as a tourist destination. The Pleasure Island Chamber of Commerce respectfully submits a request to the Town of Carolina Beach to consider providing ROT/marketing funds in support of the following activities."

Before proceeding with the letter Mr. Hagestrom said that you'll notice, when I read off the activities, once upon a time there was an entity known as the Pleasure Island Merchants Association (PEMA) and that organization has for all intense purposes been absorbed into the Pleasure Island Chamber of Commerce, so some of the items we're going to be requesting funding for will have come to you as a request in the past via the Merchants Association (PEMA).

Mr. Hagestrom proceeded with reading from the letter, as follows:

#### **Summer of 2006**

- 1. Independence Day Fireworks** - celebrate the 4<sup>th</sup> of July, Island Style! The biggest draw and the most exciting evening all summer is the big fireworks display at Carolina Beach. We want to make this our best show ever - funds requested = \$8,000.00

2. **Summer Fireworks Series** - lighting up the Island of Lights all summer long! We are targeting 15 summer dates for fireworks displays. We expect the displays to attract additional visitors, enhance the guest experience for already booked visitors, and provide a compelling media message. We are requesting \$2,000 for each show. Funds requested = \$30,000.

3. **Outdoor Movies** - Now playing at the beach! Projecting outdoor movies to the public venue (e.g. Lake Park, beach stage, boardwalk gazebo) each week during the summer for a total of 15 weeks. We are projecting a great experience for all. Funds requested = \$30,000.

4. **Events Support** - Every year the town has been generous in supporting the great events that the Chamber brings to the town including the Beach Music Festival, Chowder Cook-off, and Seafood Blues & Jazz Festival). Funds requested = \$8,000.

### **2006/2007 Fiscal Year**

For budget planning purposes, please take into consideration that the Chamber would like to continue these exciting events for the Summer of 2007. We expect our fund request to be in line with funds requested for the Summer of 2006.

Each of these events requires additional funds and volunteer time that will be provided by the Chamber and/or business owners. We consider this a joint effort between the Town and the businesses on the Island.

The Chamber understands that ROT funds have exceeded initial budgeting and are projected to continue to increase over the coming year. With the additional funding, we hope that the Town agrees that these programs are a reasonable investment of ROT/marketing fund dollars.

Sincerely, the Events Committee, Pleasure Island Chamber of Commerce.”

Before closing, Mr. Hagestrom said there are just a couple of more quick items that he wanted to point out. He said, just for explanation purposes, the Room Occupancy Tax (ROT) fund is sort of a self-fulfilling snowballing fund. If you take the money and you put it into events that brings more people to the hotels you get more Room Occupancy Tax dollars, there's more events and activities that you can support and so we feel like it is a responsible use of those monies. Again, this is monies that are paid to the hotels and is designated via state ordinance to be used for activities like supporting tourism within the Town.

He also read an example from a letter that they received, and he mentioned that they received many similar letters last year. He said that this was a letter written to

the Town Manager and a copy to Valita Quattlebaum.

“I’d love to let you know I’ve enjoyed the fireworks on Thursday nights this summer. I have many friends and clients who have joined me in the beach on Thursday nights.

Thursday night fireworks has become such a regular event that many of my friends and clients arrive for the weekend on Thursday instead of Friday. I’m a real estate broker and I live and work on the beach. Carolina Beach has become such a wonderful place with so many entertaining events.

Keep up the good works and I hope to see fireworks next year on the beach.

Oh, also, last Sunday outdoor movie was great., I look forward to this Sunday. Thank you for making this such a great community. Shelly Palmer”

He said this is just an example of the many supporting calls and e-mails that we’ve received from the programs.

He also mentioned that the Cape Fear Coast Convention and Visitors Bureau is excited about these programs, so much so that they’re proposing for this year, that they would like to be able to get the message out there. They’d like to brand this idea that they came up with “A Classic Carolina Summer”. They’ve got a tag line they’ve come up with “Start your vacation with a bang and settle into a classic Carolina Summer” an opportunity to enjoy the fireworks and the movies. They have put together a whole program and they feel very confident they can take and sell it to different magazines and publications around the state to let them know what a wonderful place this is to come and visit.

He thanked Council for their time and consideration.

Mayor Clark thanked Mr. Hagestrom and said they are beginning to work on the budget. He said a “Classic Carolina Summer” sounds good and we appreciate all the volunteers that make that happen.

### ***PRESENTATION OF PLAQUE AND RECOGNITION OF INTERIM TOWN MANAGER, BOB NICHOLL***

Mayor Clark introduced Interim Town Manager, Bob Nicholl. He said that Mr. Nicholl worked for the town in 1998, so he knows everybody and he’s been back with us

since early December and we are really glad to have him back. He's a stabilizing factor in Town Hall.

Mayor Clark presented the National League of Cities plaque to Mr. Nicholl. He explained that the National League of Cities is honoring the Town of Carolina Beach for five years of membership and dedicated service in shaping and advocating national municipal policy and in helping to strengthen and promote communities of all sizes.

The Mayor said that several of us attended the NLC's national conference in Charlotte. He said this organization represents towns of all sizes and this group does a lot of good work.

Mr. Nicholl thanked the Mayor and said to the citizens of the town that it's a pleasure to be back in Carolina Beach again for a second tour of duty and he looks forward to working with everyone.

## ***PUBLIC DISCUSSION***

### **Concerning Boardwalk Improvements**

Mayor Clark introduced Mr. Jess Yates, representing the Hula Grill Restaurant, located on the Boardwalk.

Mr. Yates said to the Council that the purpose of coming forward tonight is certainly not to stir the pot, but at the same time there are some real issues on the Boardwalk that he wanted to tell Council about.

I'm sure you're all settled in now as members of Town Council and the age old question that many Council Members in Carolina Beach have been asking themselves for the last twenty years is, "What can we do to improve the boardwalk"? This is your turn as a new Council to examine this question.

He said that their recent campaign produced two schools of thought - there were the high rises down there and the no-high rises. The reality is that large tracts have been accumulated by four investment groups and they all have tall profits in mind. I don't know that short buildings are going to work in their scheme of things.

When you combine these return on investment designs with the recent North Carolina State CAMA revisions on law implementation, that will become law in April of 2006, you have the potential for nothing to occur for the next two years at least, just like the last twenty.

The new V-Zone law will execute all the historical renovation efforts of those who require a utopian resurrection of the boardwalk thirty years ago. This state law is going to make the renovation of the single-story masonry buildings not doable. The new law is going to prevent the revitalization of those one-story buildings.

New lighting and police patrol are good starts and the new flower beds that are going in today are great as well; however, we need to think about replacing sewer and water lines to facilitate new fill development. There's only a small amount of in-fill development possible now, as a return on investment can be realized perhaps with two small ocean front tracts, provided we can get water and sewer up to the Boardwalk. There may be a few more small tracts and he is willing to look at another one that I own down where the ice cream shop is located.

New water lines will help with fire safety and sewer lines are needed to replace the current terra cotta lines which have crumbled over the years, and environmentally if we could get new sewer lines in there it will help with the waste actually going to the sewer plant for treatment.

Mr. Yates said that it's not really as big an undertaking as you might think. He personally rented a saw from XYZ Rentals and cut up the sidewalk and ran a new waterline into the Hula Grill prior to opening, so you can do it all in-house or on a case-by-case basis if you were so willing to upgrade in certain areas of the boardwalk.

I have a concept that I want to try to pursue; however, I cannot promise you that I can be successful. There are a lot of things that are working against in-fill redevelopment down there; for one thing the lending community is a little bit skeptical of our ability to do anything peacefully in the central business district as a community.

The other thing is that area is a little bit blighted and the lenders are a little bit skittish of lending in that area. Quite frankly the reason I put it under contract was I didn't think I needed a loan. I thought that I'd be flush from cash because a high rise development was supposed to buy me out, and today I would have just paid cash for it, that's not going to happen now. That doesn't mean this in-fill on these two lots doesn't need to happen, but what it does mean is I will have to have lending support and I cannot do it from a cash basis standpoint.

He said that what he is looking for is if you could examine all of the details with regard to in-filling there and look at something that's not binding. If it's something you think we can do then we can work with the lenders in question and try to get this thing done.

Mayor Clark thanked Mr. Yates.

Councilman Macon said, on that note, he has encouraged the new Council Members to get their ideas out there because everybody says “smart growth” and “smart growth” can mean a lot of different things to a lot of different people. I’m

encouraged by the fact that they want to get what is acceptable and what they are looking for out there as soon as possible, because there are a lot of people out there in a holding pattern waiting. I think that’s something they are willing to do.

Mr. Yates said, just as a side note, if I don’t close this out February 15<sup>th</sup> it won’t happen. These properties are going to double in price and financially it just won’t be feasible. He said it’s just going to take an unconventional approach to knock down barriers to getting something done or it’s just going to be like the last twenty years.

Mayor Clark thanked Mr. Yates.

Mayor Pro Tem Gilbert said that he respected Mr. Yates for coming forward, and he informed him that Council made a commitment to provide infrastructure down there. He believes that in-fill and where you are talking about with the limitation of 5,000 square foot, this looks like it’s probably perfect for what you’re doing. We can have a dialog and work with Planning and Zoning.

### **Dogs on the Beach**

Mayor Clark recognized Michelle Blackledge, 1208 Carolina Beach Avenue North.

Ms. Blackledge said that it was recently printed in *The Star News* regarding the issues facing the town, that Joel was quoted as saying...and this is in regard to the Council and administration, that; “If we’re having an issue or there’s something going on in this town expect to have to deal with it”. Well, we’re having an issue and the problem is dog poop on the beach and the inability of many dog owners just to follow three simple rules: (1) The dogs are prohibited on the beach from March through October, and that’s all hours, not just 9:00 to 5:00. When confronted about this problem the dog owners reply, “well, it isn’t enforced.” (2) Dogs that are not on private property must be leashed at all times, and again response by dog owners who are told about leashes, “well, it’s not enforced and get a life.” (3) Owners must carry two poop bags for each dog in possession and promptly remove poop from public property, and we see, by the evidence of this, it is in fact not enforced and it might be practiced by few. In fact today there was a bag lying in the middle of the beach with no one around it with a pile of poop inside of it and I picked that one up too. So even if they pick it up they can still leave the bag there and that doesn’t do

any good for anything.

On December 29<sup>th</sup> I went down to the beach and picked up enough poop to fill a gallon size zip lock bag, and that was just one block of the beach, the 1200 block. Keep in mind that I don't have any dogs. I've only been on the beach three times in the last two months and it even smells like dog poop. It doesn't smell like the ocean, it smells like poop.

Besides being a disgusting nuisance it has no part of the eco system of our ocean wildlife. It's a violation of city ordinance to leave the dog poop on the beach. I contacted Mike, in your Code Enforcement Department, to come over and have a look. He came right over and I said "I need to show you something". He was a bit surprised at the bag and especially stunned that fellow dog owners would be so disrespectful to the rest of us who have equal rights to share and enjoy our beach, as well as make a bad name for those who actually do pickup. I asked him what could be done and his answer was simply there isn't a whole lot that can be done because it's impossible to enforce. He said that he hates to see it happen because he enjoys bringing his own dogs to the beach, but the solution to the problem is to ban the dogs altogether or have an area for the dogs limited in size that could be better monitored for compliance. I asked if there was anything at all that I could do to help him enforce it. He said there isn't a whole lot we can do.

The bag I brought today was collected in twenty minutes time in the 1200 block and half of the 1300 block, it didn't take very long to get this much poop, absolutely disgusting. And that was only twelve days from the first bag I collected in the 1200 block, so it's replenishing itself, definitely.

In addition to the poop problem the loose dogs running on the beach are a problem. He stated that she has been jumped several times and lunged at by people's dogs that are not on a leash, and of course they think they're all harmless. I know a lot of people who are very aggravated by having to worry whether somebody's dog is going to start bounding down the beach after them or their own dogs.

She said that I'm now presenting this problem to the public servants to deal with and until someone can convince me a positive point of having dog poop on our beach or until dogs can become 100% efficient I don't see the necessity of having dogs on the beach at all.

As it stands right now the nuisance has become greater than any benefit and the dog owners have no one to blame but their fellow dog owners if they lose their right to bring the dogs to the beach.

Councilman Macon asked, what would be a time frame that you'd typically see them on the beach - in the early morning and afternoon?

Ms. Blackledge said, right now it's all the time, and of course they're allowed on the beach all the time right now. In the summer, before people go to work.

Councilman Macon said that during the summer they're not supposed to be out there. Ms. Blackledge said they are out there before going to work and then they come home at 5:00 o'clock and the lifeguards are gone, nobody's enforcing it, and they'll say it right to your face, well nobody's enforcing it, and they tell each other, you know, I bring my dog out and so then the next person, next person, it just goes on and on. It's a real problem and I feel bad for the people who really do care and pick up after their dogs. I feel bad for them to lose their right but you know....I think it's the dog owners who are causing the problem, not anyone else.

Mayor Pro Tem Gilbert said to Ms. Blackledge that two years ago he was exactly where she is right now, asking Council to please do something, codify it, put an ordinance in, and there was nothing they could do with teeth because it's so complicated. When you see somebody let their dog leave excrement and you could follow them home, you could call the police, you could call 911, and the police officer didn't see them do it. So then you're going to have a detective or somebody investigate it, this whole process, so it's horrible that we have a minority or maybe it's not a 'minority', not cleaning up after dogs. As of this year, or last year, we actually own dogs now and it's horrible that people don't take responsibility, and I know in other countries, Australia, they don't have litter problems, they don't have dog excrement problems because all the citizens are involved and they guilt them into picking it up, and I'm sure one who will walk up and say 'you didn't pick it up'.

I have talked to the Mayor about some type of ordinance. He said that people in larger cities like New York have to carry, visible to the public, a device to pick up the animal excrement. You have to waive it like a flag to show that you're going to pick it up and that doesn't even help. I've seen people do that and look around to see if anybody's seen them and they walk off holding a bag where they could have cleaned it up.

I think it's a philosophical problem that we have and he doesn't know what it is going to take. Unfortunately it might have to be something as invasive as banning dogs, maybe for a period of time, so everybody gets the big picture. The good dog owners are hurt by the bad dog owners and then they're going to suffer under it and then maybe they can do it, but we hear you and I hear you.

Ms. Blackledge suggested an area that they can have, that they can bring their dogs, that can be more policed. Mayor Pro Tem Gilbert said, what a super idea just having one area that you can do that and certainly we can discuss it, but I feel your pain and I was in your position a couple of years ago and nothing's been done because it is so hard to enforce, but we'll get creative and come up with some way

to do it. Ms. Blackledge said that she is willing and available to help. Mayor Pro Tem Gilbert went on to say this is a great idea – to involve the public and give them some type of deputizing to go out and say you're part of code enforcement.

Ms. Blackledge said that she actually got into an argument with her next door neighbor. We have a rift now because of this problem, because I confronted his cleaning lady who did it. I brought it right to her and said, you left this on the beach. He was madder at me than what she did. She purposely kicked the sand over it. I watched her do it and I was just disgusted.

Mayor Pro Tem Gilbert said that he applauded her for confronting people, and that's what it's going to take - guilting people into doing it because it is a problem. He suggested that we figure out what other communities are doing to enforce it and let's go forward with it.

Councilman Macon said we have police that have four wheel drives now and I think we need to be a little more active on the beachfront and maybe stopping and handing out a flyer on the beachfront.

Mayor Pro Tem Gilbert said if anyone has got any ideas to send them to us by e-mail.

Mayor Clark said that Michelle came to my office last month and we talked about it with Mike and Valita and we're going to try to start an education program, get some information out there, and just try to hit it that way. The second resort is probably not going to be nice, but we'd be willing to try that. He thanked Ms. Blackledge.

## **CONSENT AGENDA**

### **Approval of the Minutes: (Special Meeting - December 12, 2005; Regular Meeting - December 13, 2005; Special Meeting - December 20, 2005)**

Councilman Johnson asked the Mayor, how do we handle the special meeting minutes of December 12, 2005? He asked the attorney if he had any advice. The Town Attorney, Al Clyburn, asked what is the status of those minutes? The Town Clerk said that the minutes are before Council this evening.

Councilman Macon said that he is the only one here tonight that was actually at that meeting and he doesn't have a problem with the minutes and making a motion to accept the minutes of December 12, 2005.

The town attorney said that would be fine.

Following Councilman Macon's motion there was discussion concerning the order of motions needed for approval of the minutes and/or Consent Agenda. The town clerk suggested that a vote could be taken to approve the special meeting minutes of December 12, 2005 and a separate motion could be made to approve the rest of the Consent Agenda.

Councilman Macon made a motion to approve the special meeting minutes of December 12, 2005. **MOTION CARRIED UNANIMOUSLY.**

Before considering a motion for approval of the remainder of the Consent Agenda, Mayor Pro Tem Gilbert said that he had one comment concerning the December 20<sup>th</sup> special meeting. He said on page 2 of 9, I know this isn't verbatim, but regarding Item #25, it says "Steve Pagley, Director of Operations, said that North Carolina DOT would install a pedestrian signal for \$7,500". I misunderstood. I thought that the DOT was actually going to pay for that \$7,500 signal and the dialog in it isn't all in there, but I just wanted to make sure there's some clarification that that's not what the director of operations meant, so I just wanted to make that clear that that's what my impression was and I just wanted to clear that up. The Mayor said we'll clear that item up, that's Item #24 on tonight's agenda too.

A motion was made by Mayor Pro Tem Gilbert to approve the minutes of December 13, 2005 and December 20, 2005. **MOTION CARRIED UNANIMOUSLY.**

Councilman Johnson made a motion to accept the remainder of the items on the Consent Agenda as presented tonight, as follows:

Set a public hearing date for February 14, 2005 at 7:30 p.m. or soon thereafter to consider a request for a conditional use permit at 500 Spencer Farlow Drive for a planned unit development and subdivision.

Set a public hearing date for February 14, 2005 at 7:30 p.m. or soon thereafter to consider a request for a conditional use permit at 1303 Canal Drive for a three-year condo.

Set a public hearing date for February 14, 2005 at 7:30 p.m. or soon thereafter to consider a request for a conditional use permit at 610 Carolina Beach Avenue South for a quadruplex.

Set a public hearing date for February 14, 2005 at 7:30 p.m. or soon thereafter to consider a request for a modification of a conditional use permit at 1000 N. Lake Park Blvd. Jubilee.

Set a public hearing date for February 14, 2005 at 7:30 p.m. or soon

thereafter to consider a request to rezone 908 S. Lake Park Blvd. from HB to MX.

To acknowledge two budget transfer requests from the operations department. The first to transfer \$10,000 from account 308120.20 (water maintenance to mains) into account 308120.55 (water, meters, and other related materials). The transfer is needed to purchase additional meters and parts for said meters.

The second is a transfer in the amount of \$9,810 from account 308120.46 (water, professional services) into account 104400.47 (finance, banking fees). This transfer is for the costs of the lock box service the town has for remitting water/sewer/stormwater payments.

Set a public hearing date for February 14, 2006 at 7:30 p.m. or soon thereafter to consider an amendment to Chapter 9 Motor Vehicles and Traffic, Article VI Schedules, Schedule A Speed Limits to Reduce the Speed Limit on Spencer Farlow Drive.

Adopt Resolution No. 06-860 "Yes to Beaches 2006" urging Congress to pass the Water Resources Development Act supporting adequate funding for beach renoursihment.

**MOTION CARRIED UNANIMOUSLY.**

***PUBLIC HEARING – REQUEST FOR A CONDITIONAL USE PERMIT FOR 3 DUPLEXES LOCATED AT 301, 303, 305 CAROLINA BEACH AVENUE SOUTH***

Mayor Clark stated that anyone wishing to speak must be sworn in.

The Planning and Development Director, Steve Harrell, stated that the first item will be presented by the town's Zoning Administrator, Jeremy Hardison, who worked on this particular project.

After being sworn in, Mr. Hardison stated that this is a request to construct three two-unit residential structures, for a total of six three-bedroom units. There were three structures on those lots that have since been demolished. With the overhead projector Mr. Hardison displayed the proposal for a Planned Unit Development (PUD). The tracts are located at 303 Carolina Beach Avenue, South in the T-1 Zone under a Planned Unit Development (PUD).

There may be allowed as a conditional use in T-1 zoned properties, the purpose is

intended to encourage innovation, flexibility in design, and a better land use by allowing deviations from the standard requirements of the town's specific zoning districts.

In this case the applicant is not requesting any deviation from the standard requirement of a conditional use permit for a Planned Unit Development (PUD).

He presented a rendering. The maximum lot coverage is 40%, which includes a footprint of the building, decks and steps. The total square footage of the property is 150 x 100 square feet. The applicant's proposed total coverage equals 4,982 square feet or 40% lot coverage. Density of the units under planned unit development in the T-1 district is 29 units per acre, which would yield ten units.

The applicant's structure would not exceed 50' in height. The setbacks in T-1 district are 10' on the side, 20' in the front and 10' in the rear. That applicant is proposing a 20' front, 10' rear and a 10' side setback. The site is in a flood zone and is located within a CAMA AEC.

The applicant is required to provide fifteen parking spaces based on two per dwelling unit, plus half a space per bedroom. The applicant is providing eighteen total parking spaces on site.

The landscaping will have to be provided on all boundaries of the property. Sidewalks, curb and gutter will be required on all public right-of-ways. Planned Unit Developments (PUD) require at least 25% open space, which the applicant has met.

For the storm water, the applicant proposes to maintain as much water on site as possible.

He said, before you are the required findings and the general conditions as laid out in our Zoning Ordinance. The Technical Review Committee reviewed this September 26, 2005 and their comments are before you and 22 staff recommendations. The Planning and Zoning heard this proposal in its November 10, 2005 meeting and they unanimously approved it.

Councilman Johnson asked if the cantilever deck is allowed in the CAMA setback? Mr. Hardison replied, as long as it's cantilever and no structure is going into the ground and as much as an engineer will sign off on.

Mayor Clark asked if the Planning Department recommend approval and Mr. Hardison said, yes,

Mayor Pro Tem Gilbert said, concerning the storm water the applicant has proposed

to maintain as much water on site as possible, a pro-rated fee will be charged based on its percentage. I know the language throughout this whole packet is a little inconsistent, so I was wondering on these drawings, is there anything on here that indicates how they're going to propose to maintain as much water on site as possible? Is there a vehicle for that on this drawing? Mr. Hardison said that maybe the applicant can expand on the storm water issues.

Mayor Pro Tem Gilbert said that he was confused about the addresses, because he went by there today and there's construction on 305. He asked if they have already been given a building permit? Mr. Hardison said for one of them they have because it's currently just one parcel of land and that one building we went ahead and

permitted that because it does meet all applicable setbacks. It is part of this project and for him to move forward with this project he would need approval, but for the structure he has now we could permit that.

Mayor Pro Tem Gilbert asked if 305 is being considered in this conditional use permit or not? Mr. Hardison replied that it will be a part of it, and this building, right here (referring to the map), he has started construction and this is as the parcel looks today, and he meets all the current setbacks.

Mayor Pro Tem Gilbert said so what you're saying is they didn't need a conditional use permit when this single one was considered? Mr. Hardison said that is correct, but they would like to make the one that is under construction now part of the planned unit development.

Councilman Johnson asked, on the west property line pin, is that pin line right at the asphalt pavement? Mr. Hardison said I'm not sure how much distance there is between the property line and the pavement. Councilman Johnson said, but the applicant is here tonight and maybe they can tell us. Mr. Hardison said, yes.

Mayor Pro Tem Gilbert said that Councilman Macon made an observation that there's no sidewalk shown on these drawings. Councilman Johnson said that it is in the conditions and that is why he asked about the pin location but if that is at the edge of the pavement he was curious how we are going to get a 5' sidewalk in there.

Councilman Johnson also asked if under the staff recommendations if item #16 and 21 are the same. Mr. Hardison said there is a repeat so we only have 21 conditions.

Councilman Macon made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark restated that anyone wishing to speak must be sworn in.

After being sworn in, Mr. Brandon Carter of Secoff Construction Company said that he wanted to come up and make sure that any questions that you might had were answered. He said to Council that you mentioned the sidewalk and being able to fit that in there. He said that the lot pins are not right up against the road and we shouldn't have any problem at all getting a 5' sidewalk in there.

Councilman Johnson asked for clarification - between the existing road now and the pin? Mr. Carter said, yes sir.

Councilman Johnson said since you're up there, I guess I should refer this to our attorney. I guess there's been a lot of questions about the sidewalk, because of our ordinance. We have had a sidewalk that runs along Carolina Avenue South right now on the west side of that road and we all recognize we have a storm water problem. Are we obligated to require this sidewalk on this project on the east side? The town attorney said, not that I'm aware of.

Councilman Johnson: I thought there was an existing ordinance and I thought I remembered you saying at one of the town meetings addressing to the mayor that you could not delete the sidewalk because you have an ordinance that requires it.

The town attorney said we do have a requirement that the sidewalks be installed within the right-of-way behind the curb and gutter with a minimum of 4' for residential areas, including new subdivisions, it's 5' along with CBD district or state roads maintained by the North Carolina Department of Transportation.

Councilman Johnson asked, so it would not apply in this particular condition? Is that right, Ed?

Councilman Macon said that he thinks it would and that was something that he was pretty outspoken against and basically what the past Council did was they boxed themselves in by making that requirement, instead of making it a part of the Conditional Use Permit. In other words, we can't just say that's not needed there because of the way the ordinance is written. He said, they boxed themselves in on it and I complained about it then and I complained about it in a lot of ways because in this particular case if you've got a sidewalk, you don't necessarily need one on that ocean side, plus it is more impervious surface. We're sitting here asking the applicant what do you do with your storm water, but yet we're going to create a strip of 150' more of impervious surface, which also brings to light that we require paved driveways instead of allowing innovative methods that would be more pervious, and I have an issue with that as well.

Councilman Johnson said, I thought we had addressed the pervious.

Councilman Macon said not yet, not that I recall.

Mayor Pro Tem Gilbert said I think they've discussed it but I don't know if it's actually been codified or put in the ordinance.

Councilman Johnson asked Steve if TRC is looking at that, as far as use of pervious surfaces.

The Operations Director, Steve Pagley, said the Operations Advisory Committee did look at impervious and pervious soils and what we decided to do was there was supposed to be a development off of 7<sup>th</sup> Street and we were going to try it to do some test programs on impervious concretes and impervious asphalts. He said that he didn't know where that is in the process right now.

Councilman Macon said that he appreciates a tests but the problem that I have is the ordinance requires paving and ----

Mr. Pagley said that's right and DOT says if it's driven on it becomes impervious soil. If you park on it it's impervious.

Councilman Johnson asked, does the DOT regulate driveways on non-state roads?

Mr. Pagley said DOT and CAMA states that if you drive on it then it becomes impervious.

Councilman Johnson asked, if we had a change that says you're allowed to use pervious type surfaces could we do that?

Mr. Pagley said, I guess you could.

Councilman Johnson requested, since we cannot delete this requirement that he would like to have the planning staff come before the Council at the February meeting with a proposed change to look at some of the other beaches or Wilmington, but mainly the beaches, and see if we can change this sidewalk ordinance.

Councilman Macon said what he was saying was you took your availability to work with somebody who's trying to get a Conditional Use Permit. I mean we had a subdivision that had one way in and it was just a small cul-de-sac of eight or nine lots, and in a situation like that a sidewalk really doesn't make sense, it's an impervious surface and it's an additional cost. The developer is putting it in but the homeowners who buy the homes end up paying for that sidewalk, and so it's not a

cost to the developer, it's a cost to the future homeowners.

Mayor Pro Tem Gilbert said, if we have a sidewalk ordinance I'd like to see consistency with it, but I would like to see some discretion in the application where we could use some common sense. If there's a sidewalk across the street where it is located we definitely don't want any more impervious surface. For now we're just going to have to live with but let's get some focus on it.

Councilman Macon asked the town attorney if we're successful in getting the ordinance changed, could that be considered a minor modification if it were deleted at a later date? Councilman Macon followed up by saying that we can look at it another date.

Mayor Pro Tem Gilbert said my other question is if the applicant proposed to maintain as much water on site as possible. Is there anything in here, any kind of mechanism, that you're actually retaining water on site? Mr. Carter said normally we get close to 100% if not always 100%.

Mayor Pro Tem Gilbert said, I'd like to see some clarity or some consistency from the Council on how we feel about requiring people to retain their water on site, maybe some type of consideration.

Mayor Clark thanked Mr. Carter.

Mr. Carter said he would like to say one other thing. He pointed out that several blocks down you can do this same project, side-by-side-by side, individual lots, and this plan, here, was described focus by the planning staff, and that's the main reason they wanted to do it, they wanted to do it, they wanted the landscape buffers and they wanted it to look like one complete project, so I just wanted to point that out.

After being sworn in, Mr. Wayne Eudy, property owner of 303 Carolina Beach Avenue South, said as far as the sidewalks in the area are concerned; there is a small sidewalk on the north end in front of the large condo there, the large yellow condo, going south on the east side there is no sidewalk. On the other side, across the street, there are sidewalks in some places, that's not uniformly up and down that block, so it's inconsistent as far as sidewalks are concerned. I don't believe any of them are 4' wide.

Rich Lehrer of 106 Tennessee Avenue, said he wanted to say that some communities do some interesting augmentation with driveways where they only have concrete on the outside and the inside remains the natural surface. It is not driven on, and that way it does take less impervious. There is more pervious surface and he believes that would be counted by the DOT because it is not driven on.

Susie Burch, of 300 Carolina Beach Avenue, South, property located across the street, asked what the distance is from the property line to the building on the sides. She asked, what is that space going to be between the two buildings? Is that 15' or is it 20'? Someone said it's 10'. Ms. Burch said then she is opposed. She stated that she is opposed to that and mainly for personal and selfishness reasons because she would like to have a view of the ocean, and if they take away 5' that's 5' less.

Councilman Johnson explained that it's allowed under a planned unit development. Ms. Burch said then there's never any reason to oppose it is what you're saying. Councilman Johnson said that he is just telling her that it's in the ordinance that it is allowed.

Mayor Pro Tem Gilbert said this isn't part of the Conditional Use Permit to allow this.

Mr. Harrell said it is approved in the ordinance itself, it would require going back and amending the ordinance to disallow that.

Mayor Pro Tem Gilbert said let's be clear here, these lots were combined to take advantage of those setbacks.

Mr. Harrell said he doesn't know the history on why it was combined. Jeremy may have that because it goes back to November. He said that it is under a planned unit development and it's already in the ordinance that you can have the 15' between the buildings.

Mayor Pro Tem Gilbert said, so once they combined it became a planned unit development and that's what it calls for. He asked, if they were three individual lots what would the distance between the units be required to be?

Mr. Hardison demonstrated this is how the property looks today with the property lines on each corner. Let me go back a slide (referring to an overhead). That's how the property lines were and that's how the addresses were listed. If they were permitted for each structure on each of those lots, and in the T-1 Zone, the setbacks would be 20' in the front, 10' on the sides and then the rear would be regulated by CAMA and the county's building line.

Mayor Pro Tem Gilbert asked, what the distance between the units would have been 20' and now they're 15'? Mr. Hardison said 15' under a Planned Unit Development. Mr. Harrell said but if they were separate lots it would be 20'.

Mayor Pro Tem Gilbert asked, so was there a public hearing to combine those lots or is that what they are doing today? Mr. Hardison said that anyone can combine

lots. Mayor Pro Tem Gilbert said there was no public hearing to combine the lots and basically that is what they are doing. Mr. Hardison said anybody can combine, it doesn't take a public hearing to combine lots or divide your lots. Mayor Pro Tem Gilbert said, so there was no public hearing when they combined it and they just basically took advantage of the planned unit development, right, basically? Mr. Hardison said that is correct.

Councilman Johnson said I think we also need to point out that under a planned unit development when they combine then the town planning department requires them for a landscape buffer all the way around, versus if they were separate lots you would not have the landscape buffer that you were getting with a PUD.

Mayor Pro Tem Gilbert explained, so you're probably getting a lot more aesthetically than you would if there were three individual lots by three individual owners. I mean there are probably three individual owners now buying them, but what you get is some continuity where it looks like three's some aesthetic essence between all three of them, so I think there's some give and take there. Basically you've lost 5' of the view.

Councilman Macon said if you look at the previous picture there wasn't a setback at all. These buildings were side-by-side, that's not 20' there.

Mayor Pro Tem Gilbert said he believes that brings a little clarity to it and these are opportunities to discuss this.

Mayor Clark asked for a motion to close the public hearing. Motion made by Councilman Johnson to close public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark said as you consider approval there are 7 Findings and 21 Staff recommendations as you consider this.

A motion was made by Councilman Johnson to accept the request for the conditional use permit as presented subject to meeting the conditions in the 7 required finding, the 4 general conditions, the 3 TRC conditions and the 21 staff recommendations, clarifying that the repetitive condition being deleted. The conditions are as follows:

**Required Findings:**

***Specific standards Applicant must make provisions for:***

- (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);
  - (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 Conditions:

- (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 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.

The Technical Review Committee reviewed this proposal at its September 26, 2005 scheduled meeting. The TRC recommended the project to be submitted to the Planning and Zoning Commission if the following comments are addressed:

- (1) Need to show Carolina Beach building line on plans.
- (2) Floor Plan
- (3) Rendering shows 3 floors on duplexes?

Staff Recommendations:

Planned Unit Development proposals are allowed with the approval of a Conditional Use Permit in T-1 zoned properties. Staff recommends approval

of the Conditional Use Permit subject to required findings above and the following conditions\*\*:

1. Drainage plan must be submitted and approved prior to issuance of a building permit, and signed and sealed by a licensed engineer verifying that the system is properly installed and functioning prior to the issuance of a Certificate of Occupancy.
2. Approval for a CAMA Permit.
3. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
4. All structures shall be limited to 50' in height.
5. Final project must be designed to provide the required 15 parking spaces.
6. Sidewalks must be installed on all public right-of-ways of at least 5' in width and be ADA compliance.
7. Dwelling must be constructed to meet minimum North Carolina fire code and must be approved by the Fire Marshall.
8. Dwelling must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties.
9. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
10. Landscaping must be provided on all borders of the property. The number and types of vegetation must be included on the final plan. A Certificate of Occupancy shall not be issued until landscaping is planted according to approved final site plans.
11. Refuse collection agency that will be used must be included on final site plan. The refuse collection site must be enclosed on all four sides and remain closed and secured during inactivity.
12. Maintenance of permanent open space, parking, streets, drainage systems, utilities and other such facilities -  
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
  - a) Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
  - b) Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development for the purpose of ensuring maintenance of common facilities.
  - c) Retention of ownership, control and maintenance of common facilities by the developer or Home Owner's Association.
13. Dedicated open space must always remain as open space and be

- maintained as provided in Number 12 above.
14. Show all existing structures on site plan that are to be removed.
  15. Certification shall be provided that all improvements, including but not limited to 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.
  16. Prior to issuance of building permit a plan that includes a grading schedule and construction schedule shall be approved by the Technical Review Committee.
  17. Prior to issuance of 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.
  18. Major changes to approved plans and conditions of development may be authorized only by the Town Council after review and recommendations by the Planning and Zoning Commissions in the same manner as outlined in this article for original submission.
  19. A driveway permit from the town will be required before issuance of a building permit.
  20. Water meters must be relocated in the right-of-way and run 6 lines to the units.
  21. A scaled site plan must be submitted prior to issuance of a building permit. All drawings shall be prepared at a scale of 1" equals 50' or larger showing the site and all land within 150' of the site.

Mayor Pro Tem Gilbert said since engineering still has the proposal on the water, I don't know if it's appropriate, but is there anything we could say to ask them to contain as much as possible? Any ideas?

Councilman Macon said every site is different and from construction standpoint it's going to be a lot cheaper for them to retain it on site and pay the storm water fee based on how it's currently figured. So it's definitely in their benefit to put it on site, because the storm water fee is based on what was paid for the property.

Mayor Pro Tem Gilbert said I'd like them not to opt out of just paying the prorated fee and not doing anything, since they have, in this application, proposed to maintain as much water on site. I'd like to see that there's some initiative to maintaining some of it onsite.

Mr. Pagley said according to the storm water ordinance they're required to maintain something onsite, whether it's 95% or 50%, so they'll have to do that. Even if they

do maintain 95% they'll still be required to pay the full fee. We've never given any consideration to prorating anybody's fees for storm water.

Mayor Pro Tem Gilbert asked, so that's set in the ordinance, we don't need to make it part of the motion?

Mr. Pagley said, no, you do not, and we don't calculate the sidewalks for impervious soil.

Mayor Clark said Councilman Johnson has got a motion on the floor of approving the conditions and recommendations. Is there a second?

Mayor Pro Tem Gilbert seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

***PUBLIC HEARING – REQUEST FOR A CONDITIONAL USE PERMIT FOR A TRIPLEX LOCATED AT 817 CANAL DRIVE***

The town's Senior Planner, Ed Parvin, was sworn in prior to presenting this item to Council.

Mr. Parvin opened by stating that the applicant, Ed Hewitt, is proposing a triplex with 3 three-bedroom units permitted under planned unit development. The lot is located at 817 Canal Drive in the R-1 zoning district. The property is 7,351 square feet of upland area. He noted that this has changed after moving the existing bulkhead. He continued, that planning and developments may be allowed as a conditional use in R-1 zoned properties. Normal density and lot coverage standards for this district apply. The lot is located within the 100 year flood plane and will be required to have elevated living space and is also located in the CAMA area of environmental concern.

The maximum allowable lot coverage, including buildings, decks and steps is 40% or 2,940 square feet. Based upon the allowable density calculation the applicant may build up to 2.53 units on this site. The original lot was 12,000 square feet, which allowed 4.13. The applicant is proposing three units on a 2,000 square footprint or a 27% lot coverage. Setbacks in R-1 district are 7.5' on the side, 20' on the front and 10' on the rear and corner lots require 12.5' setback. The applicant is proposing the 12.5' on Sandpiper, 7.5' on the south, a front setback of 10' off Canal and a rear setback of 30' from the high tide line, as per CAMA requirements.

It is 3 three-bedroom units which requires 2.5 spaces or 8 parking places, and they are providing 9 parking places for the triplex. There's a 5' sidewalk plus curb and gutter are being proposed on Canal and a 4' sidewalk along Sandpiper.

There's a 5' Type-A landscaping buffer required and the applicant does plan to retain all stormwater on site. Planning and Zoning heard this proposal at its November 10<sup>th</sup> regularly scheduled meeting and unanimously recommended denial based on the interpretation as to when the 1.25 multiplier can be used by the applicant, and the applicant is no longer requesting to use the 1.25. As I mentioned earlier, after moving his bulkhead he now has enough upland area to give him 2.53 units for this site, which we round up in our ordinance to 3, so he can do it by right.

Councilman Johnson asked Mr. Parvin why do we have the 10' instead of 20' setback off of Canal? Councilman Macon said it is due to lost depth due to estuarine waters. Mr. Parvin said that is right.

Council Johnson explained that this is what we discussed at a Planning and Zoning meeting and I know we have a representative of Planning and Zoning here tonight. When we reviewed this before it was pretty much verified that there had not been any loss of lot due to the waters, if anything that lot had increased in size, because we had a member on the board who owned property just south of it, and I live to the north of it, and most of the properties along the west side of Canal Drive, if you go back to the old pictures, the majority of the lots that are there are much larger than what they ever were. So I don't agree with a loss.

Mr. Parvin said that's actually language that's in our ordinance. We could change our ordinance....

Councilman Johnson said that he understands that it's in there but it says "due to a loss" and what I'm saying is I don't agree that there has been a loss.

Councilman Macon said if you'll look at one of the attachments the lot is deeded at 160' and they obviously don't have 160' of lot, so depth was lost at that lot due to encroachment of estuary waters. He explained, that's what the ordinance is and if some of it was reclaimed I don't think that negates the fact that they still lost depth in their lot due to encroachment of estuary water.

Councilman Johnson asked, so that goes for every lot on Canal Drive, and Councilman Macon agreed.

Mayor Pro Tem Gilbert asked Mr. Parvin if they will retain all the stormwater on site? He said that it says "The applicant proposes to retain the stormwater on site" and then when you read the drawing it gives some ambiguity to actually how they're going to do that. He asked, is that a commitment in the conditions?

Mr. Parvin said that is right, the conditions require a stormwater plan, but I could clarify that it has to be 100% in the conditions.

Mayor Pro Tem Gilbert went on to explain because it says the applicant “proposes” to retain it and in the drawing it eludes to some type of trench but it doesn’t actually show the plan, but maybe we can add that as one of the conditions.

Councilman Macon said that he would like to point out that not in all cases are you able to retain, just because of certain engineering principles. In the past we’ve had difficulty in engineering - I mean when you’re at sea level in a lot of cases and the closer you get to sea level the harder it is to retain stormwater on site. I’m sure there are ways to do it but it can get kind of costly. I just want you guys to make sure you temper that with the fact that sometimes it’s very difficult if not impossible to do.

Mayor Pro Tem Gilbert said that he is just looking for some consistency in language and I think the same thing would apply with sidewalks. You can ask them to retain as much as is reasonably possible, where it doesn’t put some kind of burden on them, so maybe that’s the language you can think about, but I’m just looking for some consistency in language

The Mayor asked what was the staff recommendation before it went to Planning and Zoning?

The Planning and Development Director, Steve Harrell, said because of some information we got on the fire protection and the water distribution system in this area, as well as on the next item, we would like to be able to present the next item, and then discuss with Council a recommendation based on what we’ve learned about the fire protection and water distribution system today. So I would like to ask Council to hold off making a decision on this and do it jointly with the next item because of the water distribution system issue.

Mayor Clark asked, are we going to continue with the public hearing?

Mr. Harrell said, yes, continue with the public hearing but when we do the next item then you can make a joint decision based on that water distribution issue.

Mayor Pro Tem Gilbert said that he did have a quick question about Item #7, staff condition, that reads: “Dwelling must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties” and with this thing 10' off and to the south, I think presently there’s a dwelling on the property, isn’t that right? Mr. Parvin said there is.

Mayor Pro Tem Gilbert asked, do you have a picture, because I’m curious about this?

Councilman Johnson noted that the existing dwelling is coming down.

Mayor Pro Tem Gilbert said I know the existing is but I'm curious because in the last few years I've been reading these things and I've missed this part. So is there nothing there now? Mr. Parvin said, referring to the map, that the highlighted lot at 817 is what's there now, so it's a little bigger than what will be allowed with our setbacks today, a little wider.

Mayor Pro Tem Gilbert asked, so is Item #7 pretty standard for when you guys are doing this? Mr. Parvin said it is standard in our ordinance.

Mayor Pro Tem Gilbert asked, so how do you design a dwelling that's not going to impair? I can see light so there's probably not a lighting issue there, but air. If you get a northeast blowing do you want them to share some of that with them? This thing is going to be a pretty large structure there. Who enforces that? I mean is that reasonable to look at that picture and say that there's going to be a multi-story triplex there that's going to be adjacent to that building? Mr. Parvin said that building will be demolished. Mayor Pro Tem Gilbert said referring to the map, so not that building, but that building will be demolished. Mr. Parvin said that is right. Mayor Pro Tem Gilbert stated, to the south of that there's a building. Mr. Parvin

said that's across the street (illustrating), and that's the parking lot across the street as well. He explained this is the street beside it, they will be 12.5', this present structure is not 12.5'. Mayor Pro Tem Gilbert stated that I just find it interesting reading how you would build a big triplex like that.

Mayor Clark thanked Mr. Parvin and asked for a motion to open the public hearing.

Councilman Johnson made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark reminded anyone wishing to speak must be sworn in.

Mr. Leroy Franks was sworn in and stated that he doesn't believe this conditional use permit ought to be approved because all of these conditional use permits is a way to get around the Land Use Plan. The area is zoned R-1 and that means single family home or duplex and he is sick and tired of seeing single family homes torn down for triplexes, multi-unit structures, for the greed of developers. He closed by stating that he loves Carolina Beach, and he asked – how about you?

Mr. Robert Collins, New Hanover County, was sworn in and stated that he and his family are here tonight to ask for approval of this conditional use permit to allow

them to improve the property to build the triplex that they feel would make a nice planned unit development here on the island.

Mayor Clark asked how long he has lived there? Mr. Collins said that he does not live in that house. He said that he bought the property in the spring of last year. MPT Gilbert asked him if he lives in Wrightsville Beach and Mr. Collins said yes. He said that he bought it partially for family use and partially for sale.

Mayor Pro Tem Gilbert made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY** .

Mayor Clark requested that we table this matter and move on to the next item.

Mayor Pro Tem Gilbert said before moving on he would like to make a quick comment to Mr. Franks. He said this is in an AEC. He said that we do have to respect the Land Use Plan (LUP). The former LUP of 1997 said that we have to maintain the ratio of multi-family to single family. The LUP that is in effect now is the 1997, as amended, and you have density matrixes in there that discusses where we are now and where we will be and he would like to see some comment where we are on density. You make a commitment in the matrix as to an absolute or a build out and he doesn't know how you monitor or if anybody took an inventory or if that language went away. He would like to come to the table with some discussion about the LUP and how it applies to this. If the LUP speaks to density build out then he would like to see some type of inventory that speaks to where we are starting from and to where we are going. He feels what Mr. Franks said is valid since we are in an AEC we are building a triplex we are eating up most of that lot and there is an impact from building that you can look at the bulkhead and you can see that erosion has already started and we should respect the LUP and the application of that. He would like to look at that when these projects are brought in an AEC.

Councilman Macon said, the point of having density requirements and you have so many units per acre that is when you're density requirements come in and how you control how much is in that area. If you want to have less units in that area then you have to change that multiplier and reduce it down.

Mayor Pro Tem Gilbert continued by saying, that is a reasonable consideration but we made a commitment in AEC areas that we have a density and how we get to that density and what our responsibility is to zoning on that multiplier. He said if you look at the density in CBAN and what is there now the density matrixes really doesn't call for much more development down there. So we have to look at where we are now and where we want to go in the future and it shows little to no increase in that area so if we are stepping on the toes of the matrixes he would like to see some comment to that.

Councilman Macon said to keep in mind the history the reduction has taken place. We have gone from 6 units to 4 units and now 2 units per lot so there has been reduction in density over the years in that area. In fact I was the one that led the charge to reduce it from 4 to 2.

***PUBLIC HEARING – REQUEST FOR A CONDITIONAL USE PERMIT FOR AN 11-UNIT CONDOMINIUM LOCATED AT 406, 408 AND 410 CANAL DRIVE***

Following being sworn in Mr. Parvin stated that the applicant is proposing to construct (1) approximately 26,640 sq. ft. structure to include 11 two bedroom residential units as a multi-family development at 406, 408 and 410 Canal Drive. Single family homes that are currently being demolished exist on 406, 408, and 410 Canal Drive. The applicant's proposed structure will not exceed the 50' recommended height requirement. The parcels are located within the 100-year floodplain and will be required to have elevated living space. The property is also located within a CAMA Area of Environmental Concern.

The property total square footage is 17,000 square feet or .39 acres. Density of units allowed in T-1 is 29 units per acre or 11.31 units. T-1 zoned properties allow for a maximum lot coverage of 40% which includes the footprint of the buildings, decks and steps. The footprint of the structure is approximately 6,660 sq. ft or 39% lot coverage. The proposed structure will be 50 feet in height. Setbacks in the T-1 District are 20' (front), 10' (rear), and 10' (side). The applicant's structure fronts Canal and is setback 20'; the sides are 15'; and 25' from the property to the rear.

There are eleven (11) two (2) bedroom units which require 2 unobstructed spaces per unit. The applicant has provided the 22 required unobstructed parking spaces.

A total of 49% open space is being provided. The applicant is providing a 10' "Type B" landscape buffer on all sides of the site to include a 6' wood fence with 80% opacity.

The applicant plans to retain all stormwater on-site. Existing water lines are 6". 12" lines will be required from the existing property to Harper Avenue

The Planning and Zoning Commission heard this proposal at its December 08, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings TRC comments, staff conditions, and the following condition:

1. All utilities required by TRC and staff recommendations shall be completed prior to the issuance of a building permit.

Councilman Johnson asked if we have resolved this water issue?

Mr. Harrell said this morning during our pre-agenda meeting with the department heads and town manager there were still some questions about the water distribution systems ability to provide fire protection for this particular project and project #12 (referring to the project that was previously discussed) as well and that is why he wanted to hold off on that. He said that when the Arcadia project was still in the loop, and these two projects was prior to that, and that project was still going forward there was going to be a 12" water line installed in this area that would provide the fire flow that Chief Roberts was looking for. That 12" line is no longer being proposed or to be constructed but even though the buildings are proposed to be sprinkled and even though according to Chief Roberts the Department of Insurance is satisfied with the sprinkled system there is still some question as to whether or not the 6" line could withstand the fire flow pulled by the Chief's apparatus in fighting a fire. He referred Council to Mr. Pagley for any technical questions. He said there is a water distribution study/analysis being done by Engineering Services to be completed next month and we ask that you wait until that analysis comes back and that you consider these projects at that meeting.

Mayor Pro Tem Gilbert asked if we table this to that meeting is there any time constraint that we are going to come into conflict with. Mr. Harrell said you can check with the attorney, but he feels there is not other than holding the public hearing and listening to the staff recommendations and make the decision next month. Mayor Pro Tem Gilbert said he would like to continue through with the public hearings so we can get those comments out. Councilman Johnson asked if the study would be completed by next month, February 14th? Mr. Pagley said the model will not be completed but he could run some scenarios of what would happen if we changed the lines to increase the volume of water for fire protection. MPT said so we are talking about potentially taking a 12" line all the way down from Harper to the 800 block of Canal Drive. Mr. Pagley said the whole plan is to have a 12" water line to loop the whole island. Mr. Pagley said that it is his recommendation that you don't approve any building on Canal or CBAN or the north-end until we can finish the model because he doesn't know if he can provide water for any fire flow there and if you change the direction of flow on that water you can break loose the magnese on that pipe. Mayor Pro Tem Gilbert said so basically for the folks that are bringing this to the table now they will need to understand by February a cost for bringing that 12" line from Harper to the 800 block and we will have to figure out how that cost will be absorbed. Mr. Pagley said that traditionally projects of that size are required to put in the infrastructure and the user fees and he can get it priced out by the next meeting.

Councilman Johnson asked for a safety standpoint, if we continue building on Canal Drive and Carolina Beach Avenue North to include duplexes and single

family homes, before the analysis is done, are we putting the town in jeopardy? Mr. Pagley said that he feels that you would be. If we can't provide the volume of water needed. He said some of the hydrants that we tested can only produce 730 gallons per minute and he doesn't know the maximum needed for a duplex.

Fire Chief, Brian Roberts, said that he talked to the Department of Insurance about this and that he has been doing studies with Steve prior to last May. He said during the preliminary study they saw that they had some concerns and we had a project, that if completed, was going to run a 12" line that would have done a considerable amount to repair this problem. He said this has been an ongoing problem for several years and we have luckily the project in the 400 block and triplexes are required by state law to have sprinkler systems. He explained that if I were to build a 50' triplex I would have to sprinkle it but if I build a duplex or a 50' single family dwelling and under state law I don't have to do anything for fire protection to it. The two areas in question if they weren't sprinkled buildings they would require 3500 gallons per minute fire flow. We can't provide 3500 gallons per minute fire flow there and the best we can do in the 400 block off of two hydrants would probably be 1600 which being a sprinkled building isn't that much of a problem. If it was an unsprinkled building you would be looking at 3500 gallons per minute that we cannot provide out of our system. There is not an area on CBAN or Canal Drive that I can provide 3500 gallons per minute – single family or whatever. He said that it cannot be done with the water distribution system that we have now.

Mayor Pro Tem Gilbert said we haven't had an ISO rating since the 80's. Chief Roberts said that is correct. Mayor Pro Tem Gilbert said we are probably due for one. He said what he would like to see is a commitment from the TRC that for projects like this if there is an infrastructure issue that it doesn't get this far. Then we wouldn't be sitting here like this spinning our wheels. He said we are going to have to come up with a plan and hopefully partner with these people and come up with a cost. He would like to proceed and get through this and table it and see what the plan for action is. He said it is our goal to make sure the infrastructure is in place so we can do these types of projects and we just have to fund it in our next budget. He thanked the staff for being as frank about this.

Chief Roberts explained that when the TRC looked at these projects in September or October the group knew the other project was moving forward that would have provided us with the 12" line. Mayor Pro Tem Gilbert said this is sort of the cart before the horse thing, but he appreciates it. He said the original plan was a 7 unit condo building so maybe that could have gone through that way and maybe that is why it went as far as it did.

Councilman Johnson asked the Chief and Mr. Pagley if he is understanding correctly, currently on Canal Drive and CBAN you need 3500 gallons per minute to fight a 50' dwelling whether duplex or single family? Chief Roberts said that is

the worst case. He said a sprinkled building you wouldn't need 3500 gallons per minute because you have a early detection and you have early water flow. He said 3500 gallons per minute is worst case scenario and that is how the guidelines are written. Councilman Johnson asked what is the minimum that we have in that area? Chief Roberts said 700 and some gallons. Councilman Johnson asked if that is enough to fight a fire? Chief Roberts said you would have to pull from different distribution lines and in that area we are limited to a smaller grid system. He said that we are saying to you now is that unless a building is sprinkled then we have some concerns. Councilman Johnson said we want to promote development but at the same time we want safe development and he doesn't understand why we are issuing permits even for single family if we have an issue about fighting a fire. Chief Roberts said that is why we are here and we got some results from our engineering firm as late as 5:00 this afternoon. Mayor Pro Tem Gilbert said that he thinks it is a reality that we have just come into because we have a new modeling program and we need to get it out for all of the Council to see.

Councilman Johnson said the seriousness of this is that between now and next month we don't have any idea how many more permits will be issued for a duplex or single family and the Fire Chief has a concern and he has a great concern for the safety of the public. He asked do we continue to allow permits to be issued between now and February 14<sup>th</sup> when we review these two items in blindness when we know we have a safety concern. Mayor Pro Tem Gilbert said then we have a planning department that's going to make a commitment to stop issuing permits where we don't have flow. Councilman Macon said they are not going to do that on their own and it will have to take direction from Town Council. The Mayor said the Fire Chief can make a recommendation based on the safety concern. Chief Roberts said that his recommendation right now is unless it is a sprinkled structure that it doesn't get built until we can get some questions answered. Mr. Harrell said that he believes there is one more point that we talked about this morning that even in the sprinkled system, if there is an electrical pump that you had some concern and he asked Chief Roberts to explain. Chief Roberts said that was concern that Steve had in understanding how the pump would work. He explained that depending on engineering data on a sprinkler system you may or may not have to have a pump. Our domestic water flow in some cases has been enough to pressurize sprinkler heads on the third and fourth floors of these structures and they haven't had to have pumps. Until the engineering is done on each building that has sprinklers he has no way of knowing that.

If it in fact does have to have a fire pump or jockey pump then they will have to install that fire pump in that system. Whether or not the power goes off or not we have the ability to hook to that system and pump to those sprinkler heads so that part of it really isn't an issue. That was an issue maybe with flows. He explained

that in a sprinkled building you might have a 5000 sq ft sprinkled building but every head doesn't go off at one time.

Mayor Pro Tem Gilbert asked Councilman Johnson with knowing this right now, is it reasonable to get something on the agenda where we can come together with direction for planning and public safety so that anything else on this agenda we can take care of. He said the big thing is they flow tested the island and you know where the good and bad is and if you communicate that with the planning department and if you see that you have an issue with an area that you don't issue for that area. Councilman Johnson said the problem that he has had in the past being on P&Z is he doesn't like to approve things with the condition, what if.

He said, we recognize that we have a problem and let's get the solution to the problem and what it is going to entail. He thinks we need to get the analysis and we are not going to have any kind of answer until the 14<sup>th</sup> of next month.

Councilman Macon said that he understands that we have a water flow issue and he asked if we are taking into consideration that we have a big body of water there such as Myrtle Grove Sound. Chief Roberts said what you have to consider is the big picture. He said there probably isn't a fire up there that he can't put out with the department that we have and the trucks that we have but he is looking at the ISO rating, etc. Councilman Macon said that he understands that but he asked if that body of water is a usable resource of water and when you draft it in the truck that it pressurizes it and it is going to get your gallons per minute. Chief Roberts said it will get you the rated capacity of that truck. Chances are you can pump it to another truck and then to the fire. Councilman Macon said what he is looking at is if this a way to fix it in the short term because there is always a way to fix a problem. Mayor Pro Tem Gilbert said that he trusts the department that they can fight the fires because he saw them fight one of the biggest fires on the island and if drafting is what you have got to do then he trusts that the department can do it.

The Fire Chief said that both of these projects before Council are sprinkled so he doesn't have a problem with these projects but he does have a concern with their fire flow and the fact that single family and duplexes don't fall within any fire protection laws. Even with the water we have available he doesn't have a problem with these two projects because they are sprinkled.

A motion was made by Mayor Pro Tem Gilbert to open the public hearing.

**MOTION CARRIED UNANIMOUSLY.**

After being sworn in, Mr. Fred Holland, a riparian owner adjacent to the Rockwell Group, said that the 11 units raise concern for him because of the parking. He said that it shows they are going to have 22 units but in living next door since the 80's there has been 4 families living there with very bad parking problems for as many as 6 cars and that is why I want to make sure that if this is allowed that

these parking places are actually there. The next thing is that these people, since the house was torn down and one was moved to another lot, I would hope that when they begin building that these folks would be better stewards of their community and their neighbors. He said the debris should be cleaned up when they move things. He said when they bought it they let the grass grow up and when they bought it they should do something with it to keep it up until you do something with it.

He also mentioned, in speaking of the water situation that was discussed earlier, he said he loves this time of year because he can flush a toilet without doing it twice. He said there is a problem and he mentioned it for years. He said even though it is firefighting this just brings it to light and it does need to be addressed.

After being sworn in, Mr. Leroy Franks of 908 Canal Drive said that he doesn't believe we should be promoting multi-unit development. He said that generally Canal is zoned R-1 which means single family home or duplex and not tri-plex, etc. He said the Land Use Plan states that for every condo unit constructed there should be a single family home built and he asked how does the Town Council or the developer assure the public this will happen. He asked will the developer build 11 single family homes. He said this increase in density impacts the quality of life for current property owners and the traffic in a critical area on Canal Drive, increase flooding in an area prone to flooding and increase demand for water. He said the current infrastructure can not support this project. Required piping cannot be piggy-backed on questionable other projects but be a cost to be paid by the developer. He asked will he guarantee in writing that he will pay for this or will he have the taxpayer foot this expense. He said that these people are just greedy people here to make a profit without any consideration for the residents of this town.

Ms. Anne Bowman was sworn in and stated that she lives in Carolina Beach, 923 Coastwalk Lane in Carolina Sands. She said as most of you know I am chairman of the Operations Advisory Committee and like several of the people before me I chose to speak at this public hearing because of previous comments made by the Council Members for which she is grateful to hear. She said that your concern regarding stormwater and the proposals to retain 100% to onsite, it is our advisory committee's belief that on the north end there is no such animal. I don't have to tell you what happens on Canal Drive when it rains. I don't have to tell you what happens on Carolina Beach Avenue North when it rains. I don't believe that it is engineeringly possible for any property on the north-end to retain 100% of their stormwater on site in a rain. She is grateful to hear there might be some sympathetic ears on the Council. She said the committee has been looking at pervious vs. impervious. We don't care if you want to vary as long as you understand that the federal law that we are following has certain guidelines in it that we are not allowed to vary from and one is if you park on it it's

impervious surface. She said they don't mind looking at different alternatives as long as you understand we are charged with charging by what is legally considered to be impervious surface so it would not reduce the fees for stormwater but aesthetically it might make somebody some happiness there.

She wanted to speak against both of these projects because until the stormwater issue is resolved she doesn't believe there is a single property on the north-end, and they are prepared to make a recommendation, that the entire north-end be set aside as a zone that cannot have any deviations.

After being sworn in, Mr. Rich Lehrer of 106 Tennessee Avenue, said that he wanted to commend the Chief and Mr. Pagley for recognizing there are limits to what the infrastructure can bear and it is about time. He said there are also economic limits and there are presently between 500-600 units on the market and he doesn't understand the wisdom of all of these multi-family units coming on the market when we have so many now, and from what he hears there are many more coming in the spring and they are holding back now because it is not a great time to sell. He is wondering how far we can push this before we have dark empty buildings and we start with foreclosures. He said we already have massive amount of rental units – way more than we need for this island. He said if we are going to have smart planned growth we have to start by not enlarging the number of units when we already have it zoned for a much smaller number of units. Let's try to keep to our present zoning. Realtors will tell you that people are looking for single family but land owners are looking for major density and they keep thinking if they build it someone will come and someone will buy it. He wonders who are these buyers and where are they and who are the bankers who are lending on these projects. He said that he believes we need a lot more wisdom and we need to look at this economically as well when we look at the infrastructure.

Councilman Macon said that is just what we need – more government control.

D. A. Lewis of 604 Clarendon Blvd. was sworn in. He stated that six months ago we had all the water we needed and we didn't have any problem with water in last administration and that was what the Mayor told us and the Council told us and now all of sudden we don't have any water. He said the paper has been hollering about it, he has been hollering about it, about the infrastructure, and now the Fire Chief is saying something and he doesn't know how you can allow any more building up there until it is straightened out – it doesn't make any sense.

Mayor Pro Tem Gilbert said hopefully with the transparency that these guys are showing us we can go forward with it.

Mr. Lewis said he is asking that you listen to the Fire Chief before we get somebody killed if we have to stop all of the damn building on the beach.

James Yopp with Rockford Partners was sworn in. Mr. Yopp said he is here to speak in favor of the project and to answer any questions that you have about the project. He said that most of his questions were answered by the Fire Chief in the concerns that you had about the gallon per minute flow and the ability to put out the fire. He said it is pretty black and white whether or not it is a sprinkler system or not. He said this is a sprinkled structure and we fit all requirements and guidelines for this lot. He said once Mayor Pro Tem Gilbert brought up a question about once before it was a seven unit building and that was prior to purchasing of an additional lot next door to it and that is why it expanded to an 11 unit and we are still underneath our 29 unit per acre density requirement for T-1 zoning. We've met all requirements necessary for TRC, Planning and Zoning and now Town Council approval. We do want to follow through with safety and that is why we are going through with a structure that is a sprinkler requirement. We could as the Fire Chief said go through and put multi units on those lots and those would be more difficult to put out. We are in agreement with safety regulations.

Councilman Macon said that he thinks when it went to the Planning and Zoning Commission it was suggested that you take a look at your project as far as aesthetics.

Mr. Yopp said that he has another front elevation of that and we would love to continue to move forward but it is difficult to continue to put huge amounts of money, which we are in the process with engineering the stormwater, but until we have some sort of approval on this project and that we meet all requirements meaning stormwater requirements, meaning gallon per minute flow, we will move in that direction. Right now we have an existing structure that we are under contract with for 406 Canal Drive and we cannot do all of the soil testing needed for stormwater until that structure is moved and we are wanting to do this, but by continuing to hold us and delay us we are not able to continue on with this project. We cannot get permits until we satisfy all of these requirements and we understand that. He shared with Council a copy of the front elevation. He said that he will not continue to spend a lot of money on elevations on continued engineering if the project is not going to be built because it is thousands of dollars.

Mayor Clark asked Mr. Harrell if we put duplexes on these three lots how many duplexes would be allowed? Mr. Harrell said three. Councilman Macon said to keep in mind this is the T-1 Zone and it stops shortly thereafter and from the center of town it builds out and density gets reduced and so this is in a higher density area.

Mr. Yopp said that the elevation is not complete and he knows that it is a concern because it is also their concern. He said they don't want to build something that is not going to sell.

Mayor Pro Tem Gilbert said he took a drive down there and there aren't any 11-plexes with flat roofs down there and when you look at areas of environmental concern you look at consistency with your neighbors and we have some letters from the neighbors who are concerned with it. I'm concerned with the density and the parking. In viewing the floor plan you have media rooms that are right next to bathrooms that look like bedrooms. He explained that the first thing that got his attention when reading this is that you are building 2 bedroom units and he questioned where the market is for 2 bedroom units so when reviewing the plan he noticed that the floor plan has media rooms that look like bedrooms and his concern is you're building something that is going to have more density and you only have 2 parking spaces and he was concerned with user fees and what we are getting. One concern was the flat roof in areas where there are no flat roofs. He explained that he was looking for consistency and the impact of the single family homes and the commitment to maintain the single family homes. It may be in T-1 but the thing that is being displaced is the single family homes and the mitigating thing may be the fire. The biggest thing he had is you have a lot of media rooms and he questions if people will be staying in these places. He said if we are going to table this anyway he would like some discussion from planning and to look at these things. He has friends building homes and if you call that extra bedroom a library then it cuts down on the impact. He is going to assume that these are rental units. Mr. Lehrer put it pretty well on supply and demand and the economic impact. He was also concerned with the fire suppression. He said that he saw too that the applicant plans to retain all stormwater on site and he knows that you can't retain all of it and there is going to be some kind of loss because of your elevation. Hopefully we will have a cost on the 12" water line and we will have some flow models and we have this all figured out and we will know what your impact is going to be. The density for the surrounding area is a little too high.

Mr. Yopp said that he understands the concern but it falls within the regulations that you have already set forth and we have met all of those requirements but if you want to change the ordinance we will try to meet those requirements. As far as the media room concern, usually a bedroom is notified by having an actual door to close it off to and to have a closet and if you look at the design none of those media rooms have that and they are actually sitting rooms to be used by those two common bedrooms and we didn't close them off on purpose for that. They are actually secondary family sitting areas. They don't have any closets and no doors – it is open space.

Mayor Pro Tem Gilbert said that he respects that and parking is his biggest concern. This was just his opinion and his opinion is you probably don't have enough parking. He stated that he certainly is not going to not vote for something because he has an opinion on it. With respect to the general conditions we have to look at the use not endangering the public health or safety and the other is the location and character of the use if developed according to a plan in consideration of the Land Use Plan. He explained that he is trying to look at the broader picture and we have some issues on safety.

Mr. Yopp agreed. He also added concerning the parking concern there were larger bedrooms but they couldn't get the parking to work. He said they want to keep the impervious parking surface down.

Councilman Johnson asked, in reference to the resident, Mr. Holland, can you get those lots cleaned-up? Mr. Yopp apologized to Mr. Holland and said they will have someone there this week to clean-up anything that is their mess.

Mr. Dan Wilcox of 614 Monroe Avenue was sworn in. He explained that he doesn't have a dog in this race and he doesn't know these people. He offered for clarification, with regard to the 1997 Land Use Plan, it does say that some ratio shall be maintained between small multi-family structures and single family homes. It doesn't say that it shall be maintained in the R-1 District. It says that it shall be maintained in the town. We have some areas by nature of the zoning will be higher density and some that will be lower. He feels this it is being taken out of context.

Secondly he said that he was one of the ones that brought up the appearance of the building during the Planning and Zoning meeting, but he also made the comment that we don't have an appearance standard. He feels that we have to be careful about denying a project because of its appearance. If we want to tell people that they can't build something because it is not consistent with the neighboring properties we have to be consistent on that. If somebody wants to build a house of 6 lots with 10 bedrooms where all the homes around it is single family with T-1 eleven siding and a lot of that takes place, and he doesn't want us to get into a situation where we are enforcing that type of concept.

He feels that the Fire Chief clearly identified the fact that he doesn't have a concern with a sprinkled structured.

He also reminded Council that Planning and Zoning unanimously approved this project after hearing all of the evidence.

He said that it concerns him when he hears a lot of issues being discussed that some don't apply to this project and some are being applied that shouldn't be and

the issues and concerns were heard at the Planning and Zoning meeting and it was still unanimously approved and the Fire Chief adequately addressed the fire issues.

Mayor Pro Tem Gilbert asked what is the ratio of single family to multi-family homes on the island. Mr. Wilcox said that he feels that it is reasonable that we find out. He pointed out that sometimes when you live on the north-end it may feel like there is an overwhelming amount of multi-family homes but there are single family homes being built at the same time in other areas.

Mayor Pro Tem Gilbert said that during the special meeting that Council held it was brought to their attention that infrastructure was an issue on this particular project and there would have to be certain things done before this project would go through and even though Planning and Zoning unanimously approved it, it was under the condition about this water line and fire suppression and for our education process there were some things that had to happen. He appreciated P&Z approving unanimously and thinks there is an appearance commission, that may no longer be functioning, or ordinances that should be considered and put back on Planning and Zoning for consideration.

Mayor Clark called for a motion to close the public hearing.

A motion was made by Mayor Pro Tem Gilbert to close the public hearing.

**MOTION CARRIED UNANIMOUSLY.**

Mayor Clark asked Mr. Harrell if he would like to make a recommendation about these two items.

Mr. Harrell stated that based on the conversation that took place at the department head meeting that took place earlier today, there is still some questions about the flow and he recommends that we look at it and take this up at the February meeting.

A motion was made by Mayor Pro Tem Gilbert that we table both of these issues, referring to the request for a conditional use permit for 3 duplexes at 301, 303, 305 Carolina Beach Avenue North and the request for a conditional use permit for a triplex a 817 Canal Drive, until the February 14, 2006 meeting.

**MOTION CARRIED.** (Councilman Macon voted, no.)

Mayor Clark called for a ten minute break.

Mayor Clark called the meeting back to order.

***PUBLIC HEARING – REQUEST FOR A CONDITION USE PERMIT TO ADD 5-CLASSROOMS, 2-RESTROOMS AND A CROSS-CORRIDOR CONNECTION TO THE EXISTING BUILDING LOCATED AT 400 S. 4<sup>TH</sup> STREET (CAROLINA BEACH ELEMENTARY SCHOOL)***

The Planning and Development Director, Steve Harrell, was sworn in.

Mr. Harrell said the project proposed is add new classrooms, one boys' restroom and one girls' restroom and a cross corridor connection to the existing building. Also a parking lot on the corner of Clarendon and Fifth to add the additional parking space that is needed. The addition of five classrooms would replace the modular units. The proposed new parking is on the back of the school. The project would require moving the existing playground equipment.

The zoning analysis is that it is located in the R-3 Zone, the lot coverage is 36.1% and the maximum allowed in this area is 40%. The required setback is 25' in front, 10 ft. back and 7.5 ft. side and it has all been met. The building height is under 50' and the property is located in a 100 year flood plain.

The parking analysis – required parking is 65 spaces (60 employees + 5 spaces). The proposal is to use the 44 on-street spaces and 26 spaces on the lot across from the school on Clarendon and Fifth.

The recommendation of staff is approval subject to required findings, the TRC comments and staff conditions and one additional condition to require written approval from the N.C. Department of Insurance approving the school district's protection plan which did not include sprinkler system and it would have to pass DOI approval and they would have to have it in writing. He noted that we did receive it in writing yesterday. He referred Council to the letter from DOI and especially noted "this project does not have to comply with sprinkler fire protection requirements per the 2002 NC REHAB Code as referenced to the 2002 NC State Building Code" and "because the new additions collectively total less than 10,000 square feet in area, this project will not require further review or approval by the NC Department of Insurance per the 2002 NC Administrative and Enforcement Requirements Code. A letter of non-review will be forwarded to the owner and architect."

He said this project was unanimously recommended for approval by the Planning and Zoning Commission and it also received staff approval.

Mayor Pro Tem Gilbert said that in here it says to consider prohibiting left turns on westbound Atlanta Avenue during school hours and his thought is that you just limit it during drop off times. Mr. Harrell said that is what they would limit it to and that is what they discussed and they would have signage for that as well.

Mayor Pro Tem Gilbert also said the other thing is coming out of your drop off zone you have a right turn only. He referred everyone to the map and said you had two right turn only coming out of there and during the afternoon you have the buses and you have parking on that side backing up and your taking all of your pick-ups and dumping it into the bus loading area and also where the biking used to be. He asked if that will stay in place? Mr. Harrell said that is how it is designed and recommended by the school district and it would be best to ask that question to them. Also the day care buses are usually parked on the street and in the people's yards over there. You got rid of the parking on the north side and he asked if that would be a lane to the drop off? Mr. Harrell said, yes.

Mayor Pro Tem Gilbert asked if there are any infrastructure needs because he knows they had sewer issues this year. Mr. Pagley said that is okay.

A motion was made by Mayor Pro Tem Gilbert to open the public hearing.

**MOTION CARRIED UNANIMOUSLY.**

Mr. Doug Haggett, the engineer, was sworn in. He explained that the lane can go either right or left. Mayor Pro Tem Gilbert and Councilman Macon said traditionally they block that street off. Mr. Haggett explained that one will be a drive through lane and one for parents to drop off and pick-up.

He said it will take one year to finish the renovations and then the school will reopen for the next school year.

A motion was made by Mayor Pro Tem Gilbert to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Mayor Pro Tem Gilbert to approve this item with staff recommendations 1-19, required findings 1-7 and general conditions 1-4 being met, as follows:

**REQUIRED FINDINGS:**

Specific standards. Applicant must make provisions for:

- (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 conditions.

- (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

### **STAFF RECOMMENDATIONS:**

The applicant has addressed some of the comments from Planning, Operations (Stormwater), Fire, and Police. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

1. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
2. The structure shall be limited to 50' in height. A sealed set of plans from an engineer must accompany the building permit showing that the structure does not exceed 50'.
3. Flood certification must be presented prior to issuance of certificate of occupancy.
4. Maintenance of permanent open space, parking, streets, sidewalks, drainage systems, utilities, and other such facilities:  
The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
  - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
5. Certification shall be provided that all improvements, including but not limited to 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.
6. Prior to issuance of a building permit, an engineered stormwater plan must be submitted and approved. The stormwater system shall be installed according to approved plans and a letter signed and sealed by a licensed engineer shall be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy or payment of stormwater management contribution satisfactory to the Town.

7. Curb and gutter around the perimeter of the property and a drainage plan 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 prior to issuance of certificate of occupancy.
8. Indicate on plan refuse collection and agency to be used. Refuse collection site must be enclosed on all four sides. Site must be closed and secured during inactivity.
9. Building must be constructed to meet minimum North Carolina fire code. Additionally sprinkler system will be required to be installed. Final approval of code and sprinkler system shall be by the Fire Marshall
10. Prior to issuance of 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.
11. 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 in the same manner as outlined in this article for original submission.
12. Prior to issuance of a building permit, a plan that includes a grading schedule and construction schedule shall be approved by the TRC.
13. A scaled site plan must be submitted prior to issuance of a building permit. All drawings shall be prepared at a scale of 1" equals 50' or larger showing the site and all land within 150' of the site.
14. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
15. Approval Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.
16. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. Final project must be designed to provide the required 65 parking spaces.
17. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
18. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
19. Sidewalks curb and gutter shall be installed in accordance with Article 8 of the zoning ordinance and be ADA compliant.

**MOTION CARRIED UNANIMOUSLY.**

***PUBLIC HEARING – REQUEST FOR A CONDITIONAL USE PERMIT FOR A 5-PLEX LOCATED AT 1404 & 1406 PINFISH LANE AND 703 OCEAN BLVD.***

The Zoning Administrator, Jeremy Hardison, was sworn in.

Mr. Hardison opened by stating that the applicant is proposing to construct five 4 bedroom attached units with a swimming pool on 3 lots located on the corner of Pinfish and Ocean for a total of 15,000 square feet, a total of 100 x 150 for a planned unit development in the MH Zoning District. The purpose is intended to encourage innovation, flexibility of design, and better land use by allowing deviations from the standard requirements of the town's specific zoning districts. The applicant is not requesting any deviation from the standard requirements.

He presented a site plan for Council's review. He went on to say that the maximum lot coverage is 40%, which includes footprint of the building, decks, and steps. The swimming pool and their associated deck, fencing, and equipment are exempted from lot coverage requirements. The applicant's proposed total lot coverage equals 5,991. ft. or 40% lot coverage. Density of units allowed under planned unit development in the MH district is 15 units per acre which would yield 5 units. For parking the applicant's structures will not exceed 50' in height. Setbacks in the MH district are 20' (front), 10' (rear), 7.5' (side) and 12.5'(corner lot). The applicant is proposing a 20' front, 12' rear, 10' side setback and 13' on the corner side. The applicant is required to provide 15 parking spaces based on 2 per dwelling unit + 1/2 per bedroom over 2 (unobstructed). The applicant is providing 15 parking spaces. Landscaping will have to be provided on all boundaries of the property, sidewalks and curb & gutter will be required on all public right-of-ways. Planned Unit Developments require at least 25% open space. (See attached Site Plan). There are currently 3 (three) single-family homes on each lot. The stormwater will be handled on site.

The Technical Review Committee reviewed it on November 21, 2005 and he presented their comments to Council. He also presented the requirement findings and general conditions as provided in the town ordinance. He also asked Council to consider the 21 staff recommendations. The Planning and Zoning Commission heard this proposal at its December 8, 2005 meeting they unanimously recommended approval of the request subject to the required findings, TRC comments, staff comments and the condition that the developer evaluate the potential for using pervious surfaces in their parking but meeting town's guidelines for concrete aprons as you enter cross streets.

Currently there used to be 3 single family homes on those lots and currently it is vacant now with no construction on it.

Mayor Pro Tem Gilbert said the drawing shows the property to the south to be a duplex and he asked if that is correct. He said that he went by there and it doesn't appear to be a duplex. The house next to that is a single family house and he felt that it was good to have single family homes in there. He wanted to point out that he doesn't believe that it would be a 5 unit condominium abutting a duplex. Mr. Hardison said currently there is a single family and a vacant lot surrounding the property with duplexes across the street and single family behind it.

Mayor Pro Tem Gilbert said he had a question about the pervious material comment. He asked about the requirement for the developer to evaluate the potential of using pervious surfaces in the parking area for concrete aprons, using town's guidelines. Mr. Hardison said it would be some type of impervious surface that operations would approve. Mayor Pro Tem Gilbert said if you need a model he suggested contacting Cary, NC, about the pervious concrete and asphalt that they have implemented. He said we may want to go look at some of it. You have got to have the right elevation circumstances in order to do it but it might be interesting to take a look at.

Mr. Hardison said the structure will be sprinkled and there is plenty of water for the site.

Councilman Johnson asked in reference to the B unit – doesn't it have 5-6 bedrooms? Mr. Hardison explained that the A unit shows 3 bedrooms with a possibility of den/bedroom or bar and the B unit it shows 4 bedrooms with a 5th bar/bedroom. Councilman Johnson said it actually shows 5 bedrooms with a bar/game optional bedroom and that would be the 6<sup>th</sup> one. Mr. Hardison said he told the applicant he is being approved for 5 4-bedroom units with 20 total bedrooms and that is what his parking is requiring and so he would only be able to build 20 bedrooms. Councilman Johnson said he would be very interested to see how he is going to redesign it. Mr. Hardison said that the applicant is ready to answer that question.

Mayor Pro Tem Gilbert made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark asked if anyone would like to speak on this project. There being no comment, a motion was made by Councilman Johnson to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Johnson asked if the applicant is going to speak. A motion was made by Councilman Johnson to reopen the public hearing. **MOTION CARRIED UNANIMOUSLY.**

After being sworn in, Mr. Art Heiser, the applicant, said in answer to your question on the B unit, to eliminate the option on the plan of the first and second floor optional bedroom and the first floor would become a 2-story game room with an overlook from the balcony above and we would eliminate the floor system altogether. Councilman Johnson asked, so you would eliminate the bathrooms also. He said the bathroom would stay on the second floor for that one individual bedroom (bedroom 4 and the option on A3), but he would still keep the bar/gameroom and the bathroom. Councilman Johnson said even if you eliminate bedroom 4 he feels like you still have 5 bedrooms because you have access to a bathroom, a closed off room and a closet. Mr. Heiser said and that is correct and we could eliminate the toy closet and access to the bathroom from the game room can be closed off.

There was also discussion about the optional wall and that it could be put up afterwards.

Councilman Johnson said even if you do away with that closet what is to prevent you from changing that once you get a c.o.

Councilman Macon said that becomes an enforcement issue.

Mr. Heiser asked, are we going to limit ourselves to only kitchen and dining terminology? Councilman Johnson explained that we are opening a door up to all developers about the optional room and his concern is that we are not getting the parking.

Mr. Heiser referred Council to the plan and showed how he could pick-up two more parking spaces, but to be more friendly to the community he would much rather lose the bedroom then to squeeze the parking together. Councilman Johnson questioned the E residence. Mr. Heiser explained that it is an attached 4-story unit and the E floor plan hasn't been accomplished and he is limited to 4 bedrooms and he wants to use that unit for square footage or redesign work as we get moving through our approvals and so he isn't stuck with a set of plans that will need to be revamped. He said that any the Council comes up with he will so submit.

Councilman Johnson confirmed that bedroom 4 will be eliminated and it will be open straight up and Mr. Heiser said that is correct the floor will be eliminated. Councilman Johnson asked, do you have two units like that and Mr. Heiser said no there is one of each style and the B unit has that mirrored double floor system. He said if you feel uncomfortable about the optional bedroom being closed off he can combine the driveways and bring in additional parking.

Councilman Johnson said for my personal view, you have the choice of providing the parking or the c.o. be given on the condition that this is strictly a 4 bedroom unit

and if ever converted back ...

Mr. Heiser asked about different possible options and still keep 20 bedrooms.

Councilman Johnson feels that Council is being asked to approve an incomplete plan. Mr. Heiser said the intent is to stay to 20 parking spaces and he doesn't want to squeeze the driveways down and he doesn't think the community will appreciate a parking lot in front of this building. Mayor Pro Tem Gilbert asked if any of these units are pre-sold and Mr. Heiser said, no. Mayor Pro Tem Gilbert asked how can we keep your flexibility open but also meet the parking requirements? Mr. Heiser said they will eliminate that optional bedroom without that floor.

Mayor Pro Tem Gilbert also asked with the addition of the E plan will it have to come back to Council again since we don't have a floor plan? Mr. Hardison said yes.

A motion was made by Mayor Pro Tem Gilbert to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Councilman Johnson that we approve the request for a conditional use permit with the required findings 1-7, general conditions 1-4, staff recommendations 1-21 and Planning and Zoning's condition #1. He also added the condition that Unit B he is deleting bedroom #4 and he is deleting the optional bedroom and since you do not have a floor plan for Unit E that the Planning and Zoning Department review to make sure that there are actually only 20 bedrooms. The conditions are as follows:

**REQUIRED FINDINGS:**

*Specific standards. Applicant must make provisions for.*

- (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 conditions.*

- (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

**STAFF RECOMMENDATIONS:**

Planned Unit Development proposals are allowed with the approval of a Conditional Use Permit in MH zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions\*\*:

- (1) Drainage plan must be submitted and approved prior to issuance of a building permit, and signed and sealed by a licensed engineer verifying that the system is properly installed and functioning prior to issuance of a certificate of occupancy.
- (2) The stormwater plan must be submitted prior to issuance of a building permit. The stormwater 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 prior to issuance of certificate of occupancy.
- (3) No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
- (4) The structure shall be limited to 50' in height.
- (5) Final project must be designed to provide the required 15 parking spaces.
- (6) Sidewalks, curb and gutter must be installed on all public right-of-ways of at least 5' in width, in compliance with article 8 of the zoning ordinance, and be ADA compliance.
- (7) Dwelling must be constructed to have fire alarm, sprinkler and knocks box. Must meet minimum North Carolina fire code and must be approved by the Fire Marshall
- (8) Dwelling must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties.

- (9) Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
- (10) Landscaping must be provided on all borders of the property. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
- (11) Refuse collection agency that will be used must be included on final site plan. The refuse collection site must be enclosed on all four sides and remain closed and secured during inactivity.
- (12) Maintenance of permanent open space, parking, streets, drainage systems, utilities, and other such facilities-  
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
  - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
  - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development for the purpose of ensuring maintenance of common facilities.
  - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
- (13) Dedicated open space must always remain as open space and be maintained as provided in number 12 above.
- (14) Certification shall be provided that all improvements, including but not limited to 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.
- (15) Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
- (16) Prior to issuance of building permit, a plan that includes a grading schedule and construction schedule, and 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.
- (17) 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 in the same manner as outlined in this article for original submission.

- (18) A driveway permit from the town will be required before issuance of a building permit.
- (19) Water meters must be relocated in the right-of-way and run lines to the units.
- (20) A scaled site plan must be submitted prior to issuance of a building permit. All drawings shall be prepared at a scale of 1" equals 50' or larger showing the site and all land within 150' of the site.
- (21) All lots utilized for the project shall be combined before Issuance of a Certificate of Occupancy.

The Planning & Zoning Commission heard this proposal at its December 8, 2005 regularly Scheduled Meeting. The Planning & Zoning Commission unanimously recommends approval of the request subject to the required findings, TRC comments, staff conditions and the following condition:

1. The developer evaluate the potential for using pervious surfaces in their parking but meeting Town's guidelines for concrete aprons as you enter cross streets

**MOTION CARRIED UNANIMOUSLY.**

***PUBLIC HEARING – REQUEST TO REZONE FROM R-3 (SINGLE FAMILY/MINIMUM LOT SIZE 12,000 SQ. FT.) TO R-1 (SINGLE FAMILY, MINIMUM LOT SIZE 5,000 SQ. FT.) PROPERTY LOCATED AT 600, 602, 606, 610, 612, 614 HARPER AVENUE; 601, 605, 609, 615 ROCKY MOUNT AVENUE AND 304 7<sup>TH</sup> STREET***

Mr. Jeremy Hardison presented this item. He opened by stating that the applicants are proposing to rezone the property to R-1 which would allow: (1) 15 vs. 3.6 units/acre; (2) duplex would be permitted; (3) planned unit development. The property consists of the entire block from Seventh St to Rocky Mount Ave in the R-3 district and backing up to on the east side of Ocean Ridge subdivision located in the R-2 zoning district. The R-3 zoning district allows only for single-family homes.

The proposed rezoning properties and all of the surrounding parcels are single-family dwellings or vacant lots.

Staff feels that the proposal is inconsistent with the 1997 CAMA Land Use Plan and surrounding land uses. The CAMA Land Use Plan emphasizes protecting the viability of

the existing residential neighborhoods in the main residential area, Duplexes on small (5,000 to 6,000 square foot) lots shall be discouraged through appropriate zoning amendments. The future proposed land use plan encourages single-family only.

Panning staff recommends the decision to rezone the property should be based on the following criteria:

Size of the tract:

1. Surrounding uses:
2. Compatibility with the Land Use Plan:
3. Consistency with contiguous zoning:
4. The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community:
5. The relationship between the newly allowed uses and the previously allowed uses:

Planning and Zoning heard this proposal at its November 10, 2005 regularly scheduled meeting and unanimously recommended denial based on the area asked to be rezoned was predominantly single family; the change would be inconsistent with the current LUP and the update; it is not contiguous with R-1,; there are no positive impacts; and it will dramatically increase density.

Mayor Pro Tem Gilbert made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mr. Leroy Franks of 908 Canal Drive stated that the Planning and Zoning Commission denied this request and the planning department states that it violates the Land Use Plan and suggests that it not be approved. Mr. Franks said protect the single family homes in Carolina Beach as promised. Should the town lose its single family homes it will lead to the total destruction of Carolina Beach.

Mr. William Elliott of Fern Creek Lane said that he is impressed with the people here tonight standing up for Carolina Beach and he can see the great love for this area. He used to live in condos in this area and moved to the single family home area to get out of that area and he doesn't want to move again. He would like to stay right there and retire and leave his home to his kids. He is opposed to all of the duplexes going into this area. He doesn't believe that it would be good for anybody except for

the people making the money.

Ms. Audrey Peck of 303 Fern Creek Lane, said she is opposed to this for two reasons. (1) It is not a contiguous zoning and only under the most liberal interpretation could a tiny corner of a lot located cateycorner across the street could it be considered contiguous. To the east is a single family zone district and on the other three sides of these properties is the town's main single family residential zoning district. (2) If it is rezoned these 11 properties could be replatted into 27 duplex lots and that means we would have 54 families in the little area and she thinks it is wrong and she is expecting Council to honor what you pledged when you ran and deny this request.

Vee Shore of Fern Creek Lane in Ocean Ridge. Ms. Shore said that she and her husband have owned that property since 1992 and they bought it because it was a quite place to live and that is what we were looking for. She said they lived at Atlanta and 5<sup>th</sup> Street for 5 years in a house on pilings. Her biggest concern is for the water and sewer. She said the Fire Chief has made statements about needing more water for what we have here now, and she doesn't see how we can keep building without supplying the people with what they need and what we'll need. She asked Council not to rezone it and to leave it as it is. She said most of the people are property owners and we have a few rental houses in there and 1 family is what it is zoned for and we appreciate what you can do for us.

D. A. Lewis of 604 Clarendon Blvd. is opposed to the rezoning. He is opposed to rezoning that has come to you tonight. This would cause us to lose our R-3 single family lots. Rezoning would allow density at 15 units per acre under planned unit development and all properties. He understands that a petition signed by some but not all residents has been taken to request you to rezone the area but not all property owners is in agreement with this. Rezoing this parcel would be inconsistent with 97 Land Use Plan according to the planning department and the planning department does not support this change. I ask you, the Council, to vote unanimously as the Planning and Zoning Commission did to deny this. What wants to be done here is in opposition of what the land was zoned or was intended for and this is a case of owners wanting to change zoning in order to sell property or to build more on less land to make more money and thereby increasing density for all of us.

If you were to allow this others would march in numbers in their footsteps until no more single family districts exist only for someone to make more money. This rezoning is not in the interest of our town or citizens and only in the interest of a few money makers and not people that have our interest in helping the town preserve our small low density R-3 zones. If duplexes and triplexes are what these petitions want we have areas all ready zoned for this. Please put this issue to rest with your no vote for rezoning.

Mayor Pro Tem Gilbert asked if the applicant is here and there was no response. Therefore a motion was made to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

There being no further discussion, a motion was made by Mayor Pro Tem Gilbert to not approve proposed Ordinance No. 06-618. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark called for a short recess.

### ***APPOINTMENT TO THE PLANNING AND ZONING COMMISSION***

The Planning and Zoning Commission currently has 2 vacancies on the commission.

The Council considered the following applicants: Archie Bright, James G. McCulloh, Leroy Franks, Thomas W. Campbell, Shawn M. Underwood, Robert M. Ward, James R. Rees, Dr. Jacqueline Jebo, and Betsy McQuillen. Mayor Clark thanked all of the applicants for their interest in serving the Town of Carolina Beach.

A motion was made by Councilman Johnson to recommend Betsy McQuillen and James G. McCulloh. He said that Mr. McCulloh is a certified architect and he believes that he would be a good addition to the board.

Councilman Macon asked if we can do those motions separately and vote on them as individuals.

Councilman Johnson to nominate Betsy McQuillen for appointment to the Planning and Zoning Commission. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Councilman Johnson to appointment James McCulloh to the Planning and Zoning Commission. Councilman Macon stated that he is a little bit hesitant to vote for this person because he doesn't know him and he is an architect but in his opinion that doesn't mean that he is a good candidate for P&Z, but although he wasn't comfortable he voted yes. **MOTION CARRIED UNANIMOUSLY.**

### ***APPOINTMENT TO THE BOARD OF ADJUSTMENT***

The Board of Adjustment current has 1 alternate position available and 3 permanent positions open.

The Council considered the following applicants: Charles D. Thomas, Justin Donaton, Archie Bright, Nicholas Nolan, Sr., H. (Bob) Shoemaker, Rob Pomeranz, James R. Rees and Rick Rogge. Mayor Clark thanked all of the applicants for their interest in serving the Town of Carolina Beach.

Mayor Clark said that Rick Rogge has served on the board for a number of years as a regular member and he would like to be considered serving but in the alternate capacity. Taking that into consideration, Mayor Clark made a motion to appoint Rick Rogge to fill the alternate position. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Councilman Johnson to nominate A. H. (Bob) Shoemaker to the Board of Adjustment to fill out Mr. Compton's unexpired term and then to continue a 3 year term of office. **MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Gilbert made a motion to fill former member Nick Parker's unexpired term with Mr. Rob Pomeranz with an expiration of 12/10/08. **MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Gilbert made a motion to fill Rick Rogge's permanent position with Nicholas Nolan, Sr. **MOTION CARRIED UNANIMOUSLY.**

***CONSIDER ADOPTING AN ORDINANCE DIRECTING THE MINIMUM HOUSING INSPECTOR TO REPAIR OR DEMOLISH A DWELLING AT 223 FLORENCE AVENUE***

Mayor Clark said that the next item is to consider adopting an ordinance directing the Minimum Housing Inspector to repair or demolish a dwelling at 233 Florence Avenue. He said that some background on this issue is that this started with an early morning fire on June 24, 2005 at 233 Florence Avenue, and there's been much correspondence with the owner.

Attorney Clyburn has been working with the Minimum Housing Inspector/Code Enforcement Officer, Mike Hoffer, on this project. Mr. Clyburn's role has been limited to reviewing the ordinance and the documents that Mr. Hoffer prepared.

It looks like there's been correspondence back and forth with the owner, with no responses except extensions.

The Town Attorney said that Mr. Hoffer is prepared to give a presentation to the Council on the issue.

Mr. Hoffer gave a brief overview. He stated that the fire occurred on June 24, 2005 and we're approaching seven months since the fire occurred. In

early July we prepared documents to have a hearing to determine if the house could, in our opinion, be rebuilt for a cost that's worth rebuilding, and it was determined that it was not. On July 26<sup>th</sup> we issued an order that it be demolished by August 26<sup>th</sup>. In early August I received a letter from the owner stating they needed more time and after a telephone conversation I agreed to allow more time. In September I prepared legal documents to get Attorney Clyburn to begin the process of us taking care of the project. In December I sent a letter to the owner explaining that I would take it to Council for an order to demolish.

He said this is not a fun or easy thing for the town to do. We have to come up with the money and we have to handle it. I've been talking with the owner and he'll speak to you tonight. He speaks of issues with insurance settlements that I really can't comment on. I don't have that information. I would just like to have the authority to be able to take this down if need be.

Mayor Pro Tem Gilbert asked who is going to be responsible for the cost if we take it down? Mr. Hoffer said if we take it down, we would pay the cost and there would be a lien placed on the property. Mr. Clyburn said that any cost the town incurs in demolishing the structure would be placed as a lien on the property and so we would have a way of recovering those costs.

Mayor Pro Tem Gilbert asked if there is an estimate on the asbestos abatement and the demolition? Mr. Hoffer said that he has three bids out right now, but he doesn't have an estimate right now.

Councilman Johnson asked, on August 10<sup>th</sup> you agreed to a limited extension and what kind of extension did you give? Mr. Hoffer said that he agreed to roughly a month. The process, when you submit the order, is it gives you a date for which you can take action, so I can say by this date you have to remove the house and if not then legally I'm able to move forward with it. I am inclined to work with people to allow more time.

Council said that they appreciate that.

Mayor Clark asked if the owner would like to speak.

The owner, Mr. Garsh, said that it's not a matter of dragging feet, we've had issues with the building from the beginning. It was an arson and so it was an active crime scene so it delayed any demolition of the building. The insurance policy was written the wrong way by the broker and that was a major issue that was overcome. The

issue now is the insurance company is not coming up to the fair value of the building. As I told Mr. Hoffer, who has spoken to the insurance agent, I have to come up with two or three bids from contractors that would give the right price for the building. When you cross the bridge you have a different set of figures than what the insurance is willing to pay. Mr. Hoffer asked me to ask you, respectfully request, an extension until April 1<sup>st</sup>. At that point in time it comes down and that's the outside time, at this point in time all the contractors are very busy and very few are willing to come and write an estimate on a building they know they will not be rebuilding, but I would love to see it down.

Councilman Macon asked him if he lives her locally? He said that he lives on the other side of the bridge, but I do own more property here.

Councilman Macon said that on July 20th you had a damage structure hearing and you didn't show up for that. Mr. Garsh explained that Mr. Hoffer told him to go ahead and board the building up and that it wouldn't be necessary for me to appear. He said that he never received an order to show up, to appear, because he would have. He said that he didn't have an order to appear tonight but Mike and I are in constant contact and he told me that it would be in my best interest.

Councilman Macon said that what he is trying to say is if it's still sitting there I think that you would have the means to tear it down if you other properties. So what is the purpose of continuing to let it sit there? Mr. Garsh said for the contractors to come in and go through it and take their pictures that they need to verify that it has tongue and groove paneling instead of sheet rock - it amounts to quite a bit of money.

Mayor Pro Tem Gilbert said are you saying that if we take this building down that you don't have a proper valuation of the building? Councilman Macon said that is what they have cameras for.

Mayor Pro Tem Gilbert asked if the time we're waiting on is because you haven't been able to get a contractor in there since last summer to do some kind of----

Mr. Garsh said that it's been an ongoing battle with the insurance company and up until December is the point in time they gave me one figure, and in order to get the full valuation on my policy is when they told me I needed to come up with contractors. Since June 26<sup>th</sup> or June 24<sup>th</sup> I would have had contractors, it would not have been a problem, but due to the holidays and not finding out before that aspect of this, until December, before the holidays....everybody's busy, nobody's doing anything. I have an outside adjuster that's working for me also, I can't handle this by myself, I'm not a contractor, I don't know.

Mayor Clark said so you're saying after you get these bids in that your intention is to

take this building down right away?

Mr. Garsh said yes, if not sooner. He asked for a deadline of April 1<sup>st</sup> as the outside chance. I could have it down in a week if they come across and say that I am entitled to \$20.00 a sheet instead of \$10.00 a sheet as on the other side of the bridge.

Mayor Pro Tem Gilbert asked Mr. Hoffer when he expects to have bids in. Mr. Hoffer said that he expected them two weeks ago. Councilman Johnson asked, are you expecting to have bids by the end of the month? Mr. Hoffer said yes, with authorization for me to actually have the building down he estimates it will take at least a month, but the tricky thing is the asbestos....

Mayor Pro Tem Gilbert said that he doesn't think that matters. He's trying to value his building so he can cover demolition and whatever else, so my thought is that knowing that it's not an immediate thing, and then there's the demolition time too. You've got rentals and other things going on over there that we need to get this done pretty quickly. I'm not willing to wait until April for it. I'd like to go ahead and get this thing going.

Mayor Clark said that personally he would like to see you tear the building down so the Town doesn't have to.

Mr. Garsh said that he will tear that building down. Mr. Hoffer's telling you that it's taking him two weeks to get estimates for the removal. I've got that already, it's just this time of the year everybody's dragging their feet and they're very busy. April 1<sup>st</sup> is the most extreme, just to err on the side of caution, as soon as I get the go ahead you folks won't even be involved in it. The building will be down, I'm told it would need two days leave time and it will be a three-day project.

Mayor Pro Tem Gilbert said that it is his personal opinion that we shouldn't be having this conversation. It's at a point now that we have an ordinance in front of us, so I don't have anymore questions.

Councilman Johnson said that he knows insurance and there's a lot of back and forth here, but I would be open to approving the ordinance tonight with the condition that we give the extension to the owner to March 1<sup>st</sup> and not April 1<sup>st</sup>, and if he doesn't have things then it comes down. He asked the attorney if Council could approve the ordinance with that condition. The attorney said yes but it will have to be redrafted because we weren't aware of this condition at the time it was drawn, but we can redraft to give Mr. Garsh until March 1 to have the structure demolished.

Mr. Garsh said that the other thing that you need to be aware of is the asbestos

abatement is a very tricky thing. Councilman Johnson said that he knows exactly. Mr. Garsh said that when the town gets involved with that you may be opening up a can of worms you might not want to get involved with. As the property owner, myself, I could personally go in and remove the asbestos myself without any state regulation. If I hire somebody or get you to help me then it's a problem. That asbestos is my responsibility from cradle to grave. If the town takes that building down and something happens along the way it becomes my responsibility.

Mayor Pro Tem Gilbert asked, so you're going to take that asbestos out? You're going to do that yourself?

Mr. Garsh said, no, I'm hiring a licensed asbestos abatement contractor which relieves me of my obligation, but if I don't have a hand in the hiring of the contractor someone else takes the responsibility.

Mayor Pro Tem Gilbert asked Mr. Hoffer if the bids that you requested are they from qualified asbestos abatement? Mr. Hoffer said, yes.

Mr. Hoffer said that he believes that you can adopt the ordinance as is and I could use my judgment and go by what Councilman Johnson said and not take action until instructed.

Mayor Pro Tem Gilbert made a motion to approve Ordinance 06-619 (*Exhibit 2*) directing the Minimum Housing Inspector to repair or demolish the dwelling at 223 Florence Avenue as unfit for human habitation pursuant to Article VIII, Chapter 4 of the Town Code and directing that a notice be placed thereon prohibiting its use or occupancy.

Mr. Harrell said that before you had the vote I was going to, if I could add, Mr. Mayor, basically what you're doing is discretion for the Code Enforcement Officer and the Planning Department to work with the property owner, and I just want the property owner to understand we're going to use our discretion and we do not plan to come back to this body, because that's what they're telling us to do.

Mr. Garsh said but they're giving me until March 1<sup>st</sup>?

Mr. Harrell said that Council is leaving it to the discretion of the Code Enforcement Officer and the Planning Department to work with you and get this done in a reasonable amount of time, but if it gets to a point where we don't feel like anything's being done and nothing is moving forward it will be our discretion and not the governing bodies, and that's what I'm hearing as Planning Director.

Council said that is correct.

Mayor Clark called for a vote on the motion.

**MOTION CARRIED UNANIMOUSLY.**

***CONSIDER ADOPTING A RESOLUTION AND TRAFFIC AGREEMENT WITH NCDOT FOR INSTALLATION OF A PEDESTRIAN SIGNAL INDICATION AT THE INTERSECTION OF US 421 AND DOW ROAD***

Mr. Pagley said as you have seen we have finished the sidewalk project at the back of Food Lion to the church and CVS, and we contracted DOT and they have agreed to put the pedestrian ped-heads in for a cost of \$7,500 to the town and the town has the funds to do that.

Mayor Pro Tem Gilbert asked where are those funds coming from? Mr. Pagley said from the Powell Bill funds.

Councilman Macon said that he doesn't like that.

Mayor Pro Tem Gilbert asked was it DOT who initiated that ped-head there or was it our request? Mr. Pagley said that it was our request to have the ped-heads installed.

Mayor Pro Tem Gilbert said that when he first moved here that he asked for a ped-head across 421 and the price was \$7,500.

Mr. Pagley said that DOT will hire a contractor to do the work. Mr. Pagley said they will also mark it with pedestrian hashmarks.

Councilman Macon made a motion to adopt Resolution No. 06-859 (*Exhibit 3*). He said there's going to be plenty of issues for the next two years with the Powell Bill money, I don't want to see it being used for anything except what it was originally intended, which is paving streets. **MOTION CARRIED UNANIMOUSLY.**

***LAND USE PLAN UPDATE***

Mr. Parvin said as part of the Coastal Area Management Act (CAMA) coastal counties are required periodically to update their land use plans, and we have the option of adopting the county's plan or creating our own plan and we received grant money to create our own plan.

There's two phases: Phase I and Phase II. The plan identified key issues impacting a communities quality of life, develops the vision of what the town wants the community to be, analyzes data showing how the community is changing and developing and develops policies for the town to help preserve the community's resources.

We did complete both phases as outlined in the beginning of the project. Phase II was completed in April of 2005 and that draft plan has been available on the town's website.

Part 1 of Phase I discusses the Division of Coastal Management's regulatory authority and the planning process requirements.

Part 2 is community vision, which is basically analysis of population, housing, economy, natural features, environmental conditions, current land use and development. Phase II is already completed.

Part III is policies are an approved course of action for the Town to follow and assist in reaching its goals.

Part IV is analyzing the town's goals and their consistency with the six management topics set out by the Division of Coastal Management. Also included in Part IV we created out action implementation schedule, which basically prioritizes our goals and establishes time frames for completely those goals.

Mr. Parvin concluded by stating that is basically where we are today.

Mr. Harrell said that he has talked to the Council of Governments who has been working with our department on our CAMA Land Use Grant 2005. We've got three alternatives that you can consider in moving forward:

As recommended by the COG there is what we call "fast track time line". What that would be is during the month of January the town, the COG and the DCM would meet at the end of the month and discuss possible town zoning amendments and state agency comments. What this is taking into account, which is what I heard when we gave the orientation to the newly elected officials with regard to possible changes to the '97 Plan as well as possible zoning amendments. And a fast track would be continue working on the Land Use Plan, the CAMA use plan for '05 and any zoning amendments that you might want to look at.

In February we would go to DCM, a state agency, to review any new proposed changes to the 2005 Land Use Program, which may be necessary

due to zoning amendments and upon receiving final state comments, must advertise two weeks prior to the final Land Use Plan P&Z meetings to review comments.

From mid through the second half of March '06; the P&Z could meet to review DCM state agency comments and recommended plan with all final changes to Council for adoption at public hearing. You must advertise for public hearing once 30 days prior to hearing and a second time ten days before the hearing and the public hearing, and the LUP must be adopted by resolution.

The second half of April '06 through the first half of May '06 the town could hold a public hearing to adopt the Land Use Plan by May 22, '06; and if you go to the scheduled CRC, the Coastal Resource Commission, meeting on June 22<sup>nd</sup> and 23<sup>rd</sup>.

That's the fastest you could do it and it's not recommended by the COG because you're talking about trying to do zoning amendments and finish the CAMA Land Use Plan all in the same time frame without a whole lot of time to see if there's any consistency between the two.

The next alternative, which is what we call the "maximum consistency time line" that we got from the COG would be, that we would just deal with whatever zoning amendments the Council wants to look at and finish those first, to address any of the concerns you may have. Changes made to the Land Use Plan would then be reflected and assured consistency with the zoning amendments and the DCM and the state agency would review any changes in the '05 Land Use Plan based on the zoning amendments in March.

In April the DCM and state agency would review any changes in the '05 Land Use Plan based on the zoning amendments in March.

In April the DCM and state agency would continue review of any changes.

In May we would get the comments back from DCM stage agency, we would advertise for two weeks prior to the final P&Z meeting on the Land Use Plan, to review state comments.

The second half of May '06 or the first half of June '06; the first half of June '06 the P&Z recommends the final changes in the LUP back to the Council for adoption and

public hearing. Again, you've got to advertise 30 days out and 10 days out and then you would adopt the resolution.

An LUP must be adopted by resolution and you would do that at a hearing to be held in July.

We could then submit the '06 LUP Plan to the Coastal Resource Commission in August, by the 22<sup>nd</sup>, which would meet their September meeting, which according to the COG now is the 21<sup>st</sup>, you have to have that in at least 30 days ahead of time.

What that does it eliminates any need to look at the '97 Plan. You address any concerns you have by way of zoning amendments and still allow you to move ahead with the '05 Plan.

What I'm told by the COG is the '97 Plan is permissive in nature in the sense that you could make zoning amendments without having to address the '97 plan, that would be an interim step.

The last alternative is the worst yet, which would be the same time line as the fast track alternative, but you would be attempting to amend the '97 LUP, if that's what you wanted to do, as well as do zoning amendments, and accomplish all of that by the end of May. It just probably isn't possible and really isn't necessary according to the COG.

In order to meet the CRC meeting, in September, to adopt the '05 Plan we would still be simultaneously doing the '05 Plan, so basically the recommendation from the staff is to go with the COG's recommendation, which is the second alternative, which is if you have any changes you want to make to the '97 Plan is to put those in the form of zoning amendments, which you can do fairly quickly, and then just stay with the '05 Plan once the zoning amendments are in-place, therefore we're consistent. That is the recommendation.

Mayor Clark thanked staff for the update and said there is no required action on this item.

Mayor Pro Tem Gilbert said that he would like to see a zoning overlay district for the central business district, get that in our zoning, and then work with getting our 2005 Land Use Plan in line with that. That's the least invasive, so we can immediately start talking about zoning overlay for our central business district.

Mr. Harrell said that the original plan that was approved in April by Planning & Zoning is still on our website. The changes that were made, the written changes to the text changes are mainly additions to the definitions, there's some strikethrough,

there may be some things you may want to keep, some things you may not want to keep, and I can give you a copy of those. I think the main changes that you're going to be interested in are the ones they made to the map.

Councilman Johnson said that when he was one P&Z that he thought these changes would go back to P&Z. Mr. Parvin said that according to Scott Vogel that there was no requirement for the comments from Council to come back to P&Z. The comments would go directly to DCM to reevaluate the plan but P&Z would get a chance to look at what Town Council had done, not to change it but to look at what comments DCM comments had been made and what changes would have to be made.

Mr. Harrell said the recommended alternative is rather than mess with the '97 at all is to make any zoning amendments you want, "correct" anything that was done in the '97 change that you might see, and then have the current Council comment on the final product that goes to the DCM, based on those zoning amendments, then that would go to the DCM in like April. Your primary focus right now would be any zoning amendments.

Mr. Harrell asked Council to consider agreeing on the second alternative which is to pursue the maximum consistency time line.

Council was in general agreement.

***CONSIDER ADOPTING A RESOLUTION "YES TO BEACHES 2006" URGING COUNCIL TO PASS THE WATER RESOURCES DEVELOPMENT ACT SUPPORTING ADEQUATE FUNDING FOR BEACH RENOURISHMENT***

A motion was made by Mayor Pro Tem Gilbert to adopt Resolution No. 06-860 (*Exhibit 4*). **MOTION CARRIED UNANIMOUSLY.**

***ITEMS NOT ON THE AGENDA***

Mayor Clark said some of the members of the Town Council and staff will be attending the Essentials in Government training to be held beginning February 11, 2006.

Mayor Clark said that he would like to thank staff for your opinions and for Council's too. He also thanked the public for staying this evening.

Mayor Clark announced the Polar Bear Plunge to be held in Wrightsville Beach on February 11<sup>th</sup>. He is challenging the Mayor of Kure Beach.

He also announced that there is a Tourism Development Authority meeting this month and we're going to start working on getting that budget out there and get some money coming in for these programs and to keep tourism coming to the beach.

Councilman Johnson said for clarification that he wanted to be clear that concerning the issue that the Chief brought up to us, that we're telling the Planning Department to keep issuing building permits for single-family and duplexes within the next 30 days or until the February 14<sup>th</sup>.

Mayor Pro Tem Gilbert said that what he would like to see is that you take that overlay map that has the head pressures and the charge pressures and you know where the goods ones are and the bad ones are and that's going to have to be part of the consideration. I'd like to hear from the engineer if that's reasonable, if he has confidence in that model and the work that was done to measure the flow. I think they have a good roadmap to be able to make those decisions if they issue a building permit or don't issue a building permit, so before a permit is going to be issued the have to look at the map and say I've got orange for the level of flow, so you've got orange it's the closest fire hydrant to this then I think you have to consider not issuing a building permit. But if you have a blue, which we talked about at Wilmington Beach, where they have a pretty consistent flow, they have a nice loop through there, I don't think it's an issue there, and I think on Canal and on Carolina Beach Avenue, North there's a lot of orange up there and I think those are the considerations. I'm just throwing it out there.

Councilman Johnson said since the norm is for single-family and duplex not to go through the TRC, at the moment, that you contact the Fire Chief about anything that comes before you between now and February the 14<sup>th</sup> and let him look at these, at the locations, in reference to Carolina Avenue, North and Canal Drive.

Mr. Harrell said that we could do that and just make that part of our normal process until this is looked at further.

Mayor Pro Tem Gilbert asked, are you good with the flow diagrams and you think that is reasonable?

Mayor Clark said I don't think we can sit up here and designate every area in town but the Fire Chief knows what he's getting out of the hydrants.

Mayor Pro Tem Gilbert said that it's safe planning, you just make sure that you're confident with those flow diagrams and then mark out your areas where you have

concerns and I'll be happy with that until we get this flow issue squared away. We have flow diagrams right now that we're confident in using, that area is a special concern about how to mitigate that problem.

Councilman Johnson asked do we have to give you direction or do you have direction to come back before us on the sidewalk issue? Mr. Harrell said that he has got the direction on that.

Councilman Johnson also asked is this P&Z or is this operations as far as looking at the alternatives for the impervious against pervious? Mr. Harrell said this would be something that he and the operations director would look at together.

There being no further business, Mayor Pro Tem Gilbert made a motion to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY.**

### ***ADJOURNMENT***

There being no further business, Mayor Pro Tem Gilbert made a motion to adjourn the meeting. **MOTION CARRIED UNANIMOUSLY.**

The meeting adjourned at 12:05 a.m.

Respectfully submitted,

Lynn N. Prusa  
Town Clerk

Approved: \_\_\_\_\_