

Dennis Barbour
Mayor

Jack Lynch
Councilman

Joel Macon
Councilman



Pat Efird
Mayor Pro Tem

Gary Doetsch
Councilman

Calvin R. Peck, Jr.
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
910 458 2978 / FAX 910 458 2997

PLANNING & ZONING COMMISSION MINUTES

November 10, 2005
7:00 P.M.

ITEM #1 Roll Call: The meeting was called to order by Chairman Johnson at 7:00 p.m. Those present were: Jerry Johnson, Lank Lancaster, John Keith, Linda Skipper and Dan Wilcox. Those Absent were: Sarah Efird and Mike Kopitopoulos. Also present was Ed Parvin, Interim Director of Planning & Development; Jeremy Hardison, Zoning Administrator; and Renee Fitzpatrick, Administrative Support Specialist.

At this time Chairman Johnson advised that Item #10 (Amendment of Article 18.2, non-conforming lots) has been tabled for a special meeting to be held on December 1, 2005.

ITEM #2 Minutes – August 11, 2005 and September 8, 2005. Commissioner Lancaster advised that he gave the administrative corrections to Renee Fitzpatrick. Motion made by Commissioner Keith to approve the August 11, 2005 minutes with corrections to be submitted to the Secretary; seconded by Commissioner Lancaster; all ayes. Motion made by Commissioner Lancaster to approve the September 8, 2005 minutes as corrected; seconded by Commissioner Keith; all ayes.

ITEM #3 Conditional Use Permit request from 303 Properties, Llc for three duplexes located at 301, 303, & 305 Carolina Beach Ave. S. Zoning Administrator Hardison read the October 4, 2005 memo as follows:

BACKGROUND:

The applicant proposes to construct two (3) 2-unit residential structure for a total of 6 (3) bedroom units on a tract located at 303 Carolina Beach Ave S in the T-1 Zoning District under Planned Unit Development. Planned Unit Development may be allowed as a conditional use in T-1 zoned properties. 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 in this case is not requesting any deviation from the standard requirements.

ANALYSIS:

Zoning:

Maximum lot coverage is 40%, which includes footprint of the building, decks, and steps. The total square footage of the property is 150 X 100 sq feet. The applicant's proposed total lot coverage equals 4,982 sq. ft. or 40% lot coverage. Density of units allowed under planned unit development in the T-1 district is 29 units per acre which would yield 10 units. The applicant's structures will not exceed 50' in height. Setbacks in the T-1 district are 10' (side), 20' (front), and 10' (rear). The applicant is proposing a 20' front, 10' rear and, 10' side setback. The site is in a V Flood Zone (elevation 13 ft) and is located within the CAMA AEC.

Parking:

The applicant is required to provide 15 parking spaces based on 2 per dwelling unit + *0.5 per bedroom. The applicant is providing 18 parking spaces (See Attached Site Plan).

Landscaping:

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).

Stormwater:

The applicant proposed to maintain as much water onsite as possible. A pro rated fee will be charged based on this percentage.

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.

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 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 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 13 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 recommendation by the planning and zoning commission 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 lines to the units.
21. Prior to issuance of a building permit, a plan that includes a grading schedule and construction schedule shall be approved by the TRC.
22. 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.

Commissioner Wilcox asked if the applicant is requesting a variance on the side setbacks where the buildings adjoin and Zoning Administrator Hardison advised that the requirement is 15' between structures and the setbacks for T-1 is 10' from the property line. Chairman Johnson referred to item 13 under staff recommendations and asked Zoning Administrator Hardison if he was actually referencing item 12 and Zoning Administrator Hardison said that was correct. Chairman Johnson asked if item 16 and 21 were the same and Zoning Administrator Hardison said yes, they are and we will delete item 21. Commissioner Lancaster asked Zoning Administrator Hardison if he knew the size of the existing sidewalks and Zoning Administrator Hardison said they appear to be four feet. Commissioner Lancaster said there are some existing sidewalks that are five feet and Chairman Johnson asked if there is any reason that we can't require 20' between the buildings with 10' setback since we have three individual buildings and Zoning Administrator said there are no property lines between the buildings but the fire code requires 15' between buildings. Commissioner Lancaster asked if curb & gutter are being put in and Zoning Administrator Hardison said yes. Commissioner Lancaster asked if the existence of the number of individual meters needs to be included and Zoning Administrator Hardison said it's in #20, but we could specify the number of meters (6) into that.

Motion made by Commissioner Keith to open public hearing; seconded by Commissioner Lancaster; all ayes.

At this time the applicant, Brandon Carter of Secof Construction addressed the Commission. Mr. Carter said that the stormwater is in engineering right now and they are waiting to see how things go at this meeting. As it stands, Mr. Carter said he believes they will be able to handle about 98% capacity and are working towards 100% on site. If not, they will pay in lieu of. Chairman Johnson said that even though it's not required, can they reconfigure to get 20' between the buildings and Mr. Carter said they have been working on this for about a year now with P&Z and TRC and every time they redesign it they come up with something different. What they are presenting is based on the recommendations of P&Z and this has already been re-engineered about three different time. Commissioner Lancaster advised that just for the record, this commission has not seen this project before and Mr. Carter said he meant TRC, not P&Z. Commissioner Lancaster asked if they will have a problem with what they use to enclose trash cans or the area around the base of the structure or are they planning on leaving that open. Mr. Carter said they are planning on placing lattice boxing for the trash cans. Commissioner Lancaster said he was wondering if that's consistent with the flow through requirements for structures on the ocean front. Zoning Administrator Hardison said lattice or shadow boxing is acceptable since the water can flow through it. At this time a Mr. Wayne Eudy addressed the Commission and said he is one of the principals of the project and has nothing further to add, but asked if the Commission had any questions. Chairman Johnson asked if the 20' is possible to attain between the buildings and Mr. Eudy said he does not think so.

Speaking Against:

Shelley Palmer, 300 Carolina Beach Ave. S. - Ms. Palmer said she is not opposed to the project and when she purchased her property she was aware of this. She is, however, opposed to the reduction in setbacks as she believed the T-1 zoning required 10' setbacks from each side which would leave her a 20' corridor of ocean view and now she will be losing 25% of that view because of this reduction. Zoning Administrator Hardison explained that the setbacks are measured from property lines but when the three lots were combined to one larger lot, there were no longer property lines between them. Under the planned unit development you are required to have 15' between structures which he is meeting.

Stephanie Morrison, 910 Canal Dr. – Ms. Morrison said she is not only a resident but also a civil engineer by practice. Ms. Morrison asked if the combination was to circumvent the 20' separation and Zoning Administrator Hardison said the combination was done within the last month to which Ms. Morrison said that's her point. Commissioner Wilcox advised that the purpose of planned unit development is to offer some latitude in design, but with that there is the burden of meeting higher standards for landscaping, etc. Ms. Morrison said that for the record she is not against this or for it, she feels neutral but that she finds it interesting that these lots were combined so recently.

Genie Lancaster, 104 S. 6th St. – Ms. Lancaster said she has been involved in the construction of some ocean front duplexes advised that she had issue with one of them with the flow through and suggested that they re-visit that because she had a large problem with FEMA on that and they were hit with a high insurance due to that.

At this time Mr. Eudy advised the Commission that the reason for the combination was that these lots were owned for 30 years but in different proportions and were three non-conforming lots and the process to make them one unit started about one year ago.

There being no further speakers, motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Discussion by the Board. Commissioner Wilcox said that he realizes a larger view would be wanted, but it is allowed under our ordinance so he has no problem with it. Commissioner Keith said he has no problem with it at all. Commissioner Lancaster said he has no problem with it, that the landscaping will be as much of an improvement as the detriment of the loss of a partial view. Commissioner Skipper said she agrees. Chairman Johnson said he concurs with the commissioners.

Motion made by Commissioner Lancaster to approve the request for a conditional use permit to construct 3 two-unit residential structures under planned unit development at 303 Carolina Beach Ave. S. including the Required Findings, General Conditions, TRC's comments and Recommendations made by staff including a revision of item 20 to include water meters for six units to be relocated in the right-of-way and lines run to the individual units and the elimination of item 21 which duplicates item 16 and to correct item 13 to include "as provided in number 12 above"; seconded by Commissioner Keith; all ayes.

At this time, Commissioner Wilcox inquired if we have elevation shots, etc. to provide the applicant in order to put in the curb & gutter and Zoning Administrator Hardison said it would be the Towns standards. Commission Wilcox said it would then be wherever they decide to place them elevation wise and continued by saying that the problem is that unless we have an engineer shoot that whole road and decide where that water is going to run to, you will have one owner placing it in one location and another owner putting it in 6 inches higher, etc. This will create standing water and other problems and if we require curb & gutter to be put in, it should be recommended to Council that we have engineering done to determine the location of the catch basins provide the placement of the curb & gutter.

ITEM #4 Conditional Use Permit request from Robert G. Collins for a triplex located at 817 Canal Dr. Planner Parvin read the November 1, 2005 memo as follows:

BACKGROUND:

The applicant is proposing a triplex with three (3) 3-bedroom units permitted under Planned Unit Development. The lot is located at 817 Canal Drive in the R-1 Zoning District. The property is 7090 square feet of upland area (.16 acre). Planned Unit Development may be allowed as a Conditional use in R-1 zoned properties. Normal density, setbacks, and lot coverage standards for the district apply. The lot is located within the 100-year floodplain (A9 zone) and will be required to have elevated living space and is located within a CAMA Area of Environmental Concern.

ANALYSIS:

Zoning

The maximum allowable lot coverage (includes building, decks, and steps) is 40% or 2836 square feet. Based upon the allowable density calculation, applicant may build up to 2.44 units on this site. The original lot was 12,000 square feet which would allow 4.13 units. Due to land being lost by erosion the applicant is requesting to utilize the 1.25 multiplier under Article 16 Planned Unit Development. The applicant is proposing 3 units on a 2000 square foot footprint or 29% lot coverage. Set-backs in R-1 district are 7.5' (side), 20' (front) and 10' (rear). Corner lots require a 12.5' side setback. The applicant is proposing a 12.5' side setback on the north side off of Sandpiper and 7.5' side setback on the south; a front setback of 10' off of Canal; and a rear setback of 30 feet from the high tide line.

Parking

3 units * 2.5 = 7.5 (8 required spaces; 2 per dwelling unit + 0.5 per bedroom over 2)
Nine (9) parking places are providing with access off of Canal (see attached site plan).

Landscaping

A five (5) foot sidewalk plus curb/gutter is being proposed along Canal Drive. Landscaping buffers along each property boundary are to be five (5) feet (Type "A" buffer yard).

Stormwater

The applicant proposes to retain the storm water on-site.

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

The Technical Review Committee reviewed this proposal at its July 21, 2005 scheduled meeting. The TRC recommended the project to be submitted to the Planning and Zoning Commission if the following comment are addressed:

1. Show curb, gutter, and sidewalks.

STAFF RECOMMENDATIONS:

The applicant has addressed comments from Planning, Operations (Stormwater), Fire, and Inspections. A 3-unit dwelling is allowed under Planned Unit Development 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. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
2. CAMA Minor Permit must be secured prior to Issuance of Building Permit.
3. 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'.
4. Flood certification must be presented prior to issuance of certificate of occupancy.
5. Final project must be designed to provide the required 8 parking spaces.
6. Final site plan must include cross-section of paving detail.
7. Dwelling must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties.
8. 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.
9. 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 multi-family 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.
10. 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.

11. 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.
12. 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.
13. 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.
14. Dwelling must be constructed to meet minimum North Carolina fire code and must be approved by the Fire Marshall
15. 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.
16. 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.
17. Water meters must be relocated in the right-of-way and run three lines to the units.
18. Prior to issuance of a building permit, a plan that includes a grading schedule and construction schedule shall be approved by the TRC.
19. 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.

Chairman Johnson said that under the Staff Recommendations, shouldn't it say "Conditional Use Permit in R-1" and Planner Parvin said yes. Chairman Johnson asked if there is any reason that the recommendations of the previous item just approved, specifically conditions #1, #12 and #14, shouldn't also be conditions for this project as well and it was agreed they should be. Chairman Johnson in using the 1.25 multiplier, due to land being lost by erosion, do we have proof of that loss due to erosion and Planner Parvin said that is a difficult task and Commissioner Lancaster provided maps from 1949 which we looked at, but he isn't sure if they were to scale. Commissioner Lancaster said he believes you will find that the westward bulkhead line is essentially consistent with the original dimensions of the property. It may have been 160' when the lot was first laid out but that was before the canal was there. Commissioner Lancaster said that his father owned property next to this one and it was about 110 – 115' from 1954 on so he doesn't know where the extra land comes from. Chairman Johnson said that he has a problem here with using the multiplier due to a loss caused by erosion and he has yet to see that with all the hurricanes we have had, nobody has complained about a loss of property due to erosion on the sound side. Commissioner Wilcox asked how long the applicant has owned this property and Planner Parvin said he doesn't know, but the applicant is here. Planner Parvin added that we have a 1974 map and it is essentially the same bulkhead as today.

Motion made by Commissioner Keith to open public hearing; seconded by Commissioner Lancaster; all ayes.

At this time the applicant, Robert Collins addressed the Commission and asked if they had any questions. Commissioner Wilcox asked Mr. Collins how long he has owned the property and Mr. Collins said since April of this year. Mr. Collins said they are asking for the multiplier based on the 75'. Chairman Johnson said that the reluctance to go with a triplex here on the basis of using the 1.25 multiplier versus the way we interpret the 1.25 multiplier to be used. Mr. Collins said he was not aware of that prior to this meeting, but there are three family units in his family, his two children and

he and his wife. This is one of the reasons they are looking at it from this point of view. Commissioner Wilcox asked if its possible to have this reconfigured to narrower units and provide a greater set back. Mr. Collins said the way the property is configured now, the bulkhead is substantially out from the house. The house would be 60' from the bulkhead at the western most side and they feel they designed this to fit into the space that's there and to improve the area. Commissioner Lancaster said that there are a lot of nice duplexes being designed now that are not side by side, but rather up and down and it provides a lot more useful livable space. Commissioner Wilcox asked if this design is completed and Mr. Collins said no. Commissioner Wilcox said that he has no problem with triplexes on parcels that are 1 ½ lots when it meets the density requirements. In this case, the applicant is falling short of the density requirements and he is looking for a creative solution to allow the density but to increase landscaping setbacks, etc. Mr. Collins said here again, within the guidelines we would like to have the three family units. Commissioner Lancaster said he has a hard time with the density of structures up on Canal Dr. or Carolina Beach Ave. N. with lot line to lot line frontal structure. Commissioner Lancaster said he agrees with Commissioner Wilcox that something more creative should be looked into.

Susan Collins – Ms. Collins said that when you look at the town map, there's all this square footage under water and at one time, that had to be land that wasn't under water because you wouldn't draw a lot that was under water. Commissioner Lancaster said that when these plats were made, there wasn't very much water there and when the first canals were dug, you lost some lot and they used the dug up materials to build up some of the lots, but that's been 70 – 80 years ago. There has never been that much land back there. Ms. Collins said that they tried very hard to abide by the regulations and they are not developers, they do not own a construction company and this is an experience they are working towards. Ms. Collins said she believes they are improving this greatly. Commissioner Wilcox suggested possibly tabling this project so the applicant can look into different designs

Motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Discussion by the Board. Commissioner Skipper said she is okay with it. Commissioner Lancaster said that in the form it's in he is not in favor of trying to make this work and he would recommend it not be approved and that we entertain from the applicant another approach. Commissioner Keith said he is opposed to the triplex and does not agree with the 1.25 multiplier in this situation and even with a redesign, he doesn't know if he will be in favor of it. Commissioner Wilcox said he already said what he thinks and perhaps the best thing to do would be to act on it since they have thirty days to come up with a design concept and offer those alternatives to Council. Chairman Johnson said he feels we should deny the request.

Motion made by Chairman Johnson that the conditional use permit for the triplex at 817 Canal Dr. as presented be denied due to it not meeting the criteria for land being lost by erosion to be able to utilize the 1.25 multiplier under Article 16 of the planned unit development; seconded by Commissioner Lancaster; all ayes.

ITEM #5 Rezoning request from the Town of Carolina Beach from R-1 to HB located at 1121 N. Lake Park Blvd. Planner read the November 10, 2005 memo as follows:

BACKGROUND AND SURROUNDING USES:

The Town of Carolina Beach Planning Department is proposing to create a consistent zoning classification for the Carolina Beach Town Hall complex site. The western 2.2 acre portion of the Town Hall complex is zoned R-1 where the majority of the 7 acre site is HB. Surrounding the complex is: Old Mariner's Village in the R-1 zoning district (south); the state park in the conservation zone (west); Town Hall complex in HB (east); additional HB zoned properties (north).

STAFF RECOMMENDATIONS:

Planning Staff requests that the Planning and Zoning Commission recommend to Town Council, the area be rezoned from R-1 to Highway Business on the premise that it is consistent with the six criteria as listed below:

1. Size of the tract:

The western portion of the Town Hall complex to be rezoned is approximately 95,868 square feet. Size is not relevant to the rezoning, but the fact that the complex is in two zoning districts and designated for public service usage.

2. Surrounding uses:

Surrounding uses consist of Highway Business, R-1, and Conservation.

3. Compatibility with the Land Use Plan:

In the 1997 Land Use Plan the Town Hall complex and recreation center are described in the "U.S 421 Commercial Area." Despite this, on the Land Classification Map the western portion was overlooked and designated as main residential.

4. Consistency with contiguous zoning:

The majority of the Town Hall complex is already zoned HB (approx. 69%). This rezoning would create contiguous zoning throughout the complex.

5. The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community:

The Town will eventually expand the utilization of the Town Hall complex to include the portion zoned R-1. Making the complex entirely HB will allow the Town to explore all appropriate uses for the remainder of this site.

6. The relationship between the newly allowed uses and the previously allowed uses:

Some uses that are permitted in HB but not R-1 include but are not limited to: Auditoriums; Clubs and grounds for games or sports; not for a commercial gain; community buildings; exhibition building; laboratory for testing and research; museums; offices, public, private, or civic; schools, public; public buildings.

Chairman Johnson asked Planner Parvin if he had a list of the property owners that were notified and Planner Parvin said that Renee keeps the files in her office. Commissioner Wilcox asked if it included the property owners at Old Mariners Village and Renee Fitzpatrick said that all adjacent property owners are notified. Chairman Johnson asked if that included the Presbyterian Church and Renee Fitzpatrick offered to get the list. Ms. Fitzpatrick returned with the list and presented such to Chairman Johnson who, upon review, said this was fine. Commissioner Wilcox said he isn't concerned that they weren't notified, but rather that they understand what the change means. Planner Parvin reminded the P&Z that notification is a courtesy and not a requirement and that another notification will go out when Town Council hears this.

Motion made by Commissioner Lancaster to open public hearing; seconded by Commissioner Keith; all ayes.

D.A. Lewis, 604 Clarendon Blvd. - Mr. Lewis requested the commission to table this item as there are three new council members coming on and at least one Planning & Zoning member.

Chairman Johnson advised that this would be heard by the new elected officials in December. Commissioner Lancaster added that no government stops doing business because of elections.

Motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Discussion by the Board. Commissioner Keith said he sees not problem with it, that it makes sense that it all be one continuous zoning area. Commissioner Wilcox said he has no problem with it. Commissioner Skipper said she has no problem with it. Commissioner Lancaster said it's okay with him. Chairman Johnson said he concurs with the other commissioners.

Motion made by Commissioner Lancaster to recommend approval for request for rezoning of the Town Hall property from R-1 to Highway Business as presented with staff recommendations; seconded by Commissioner Keith; all ayes.

ITEM #6 Rezoning request from Bob Hopkins from R-3 to R-1 located at 600, 602, 606, 610, 612, 614 Harper Ave., 601, 605, 609, 615 Rocky Mount Ave. and 304 7th Street. Zoning Administrator Hardison read the October 5, 2005 memo as follows:

BACKGROUND:

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.

SURROUNDING LAND USES:

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

STAFF POSITION:

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.

STAFF RECOMMENDATIONS

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

1. **Size of the tract:**
2. **Surrounding uses:**
3. **Compatibility with the Land Use Plan:**

- 4. Consistency with contiguous zoning:**
- 5. The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community:**
- 6. The relationship between the newly allowed uses and the previously allowed uses.**

Motion made by Commissioner Keith to open public hearing; seconded by Commissioner Lancaster; all ayes.

Speaking for:

June Belwin – Represents some customers for this project. Ms. Belwin said she went to each neighbor and obtained signatures. It is felt that this will be an attractive addition to the area.

Speaking against:

Lynn Denne, 100 N. 7th Street – Ms. Denne said she would like to respectfully request that the Commission not increase the density in her neighborhood. They want this to stay a single family neighborhood.

Rob Pomerantz, 405 Bay Ct. – Mr. Pomerantz said he respectfully requests the Commission deny this, that this is a nice single family area and that's how we need to keep it.

Leroy Franks, 908 Canal Dr. - Mr. Franks said he worked with the commission for several months on the Land Use Plan and we would like to keep the single family neighborhoods. When you rezone from single family to duplexes, you lose single family housing area and, if he remembers the LUP correctly, one single family home has to be constructed for each condo unit constructed.

Nick Noland, 301 S. 8th Str. - Mr. Noland said that there is the Lynch property to the east where we have allowed a triplex and now we have a request to go to multi-use family in addition to an unresolved dispute with the city where its possible they have begun installing water and sewer connections for duplexes. Mr. Noland asked that this application be denied.

Becky Eller-Doscher, 311 Hamlet Ave. – Ms. Eller-Doscher said she is building a house at 703 Magnolia and it does appear that water meters are being put in for duplexes and she would like the commission to deny this request as we need to keep our single family houses.

Genie Lancaster, 104 S. 6th St. – We have a house on five lots on the end of 6th that take up the lot between Hamlet and Charlotte and we keep hearing that everybody is applying to raise the density and she really believes it will cheapen it, that the motive is greed and gain. Ms. Lancaster said that she has ridden by Magnolia and has seen that it does have double sewer. She was under the impression that this is still an R-3 area as well. She would like to see this kept as an R-3 area.

Jim Reese, 610 Atlanta. Mr. Reese asked that this request be denied. Mr. Reese said he is also against any reduction in size of the lots or allowing to many conforming lots.

D.A. Lewis, 604 Clarendon Blvd. - Mr. Lewis said he is opposed to any rezoning from R-3 to R-1 and asked the Commission to deny this request and send a strong message to all who apply that our R-3 districts and lots are not to be tampered with.

At this time Mr. Hopkins (606 Harper) addressed the Commission and said he will not have any gain by turning this into a duplex. Mr. Hopkins said there is an R-1 at the pie shape at the corner adjacent to 600 Harper and there is a duplex in an R-2 area adjacent to the R-1 and 602 Harper. Mr. Hopkins said that he considers this an extension of the R-1 and he doesn't see this as a gain to himself.

Motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Discussion by the Board. Commissioner Lancaster said he doesn't see that the size of the tract applies to the surrounding uses in spite of Mr. Hopkins observation that we currently have an approved request for re-zoning at the corner of Harper and Goldsboro. Perhaps inconsistent duplexes built in other areas, but the surrounding uses are predominantly single family and the R-3 and R-2 areas are less dense single family than R-1. This is certainly incompatible with both the 1997 and proposed 2006 Land Use Plan and, again, it's not consistent with the majority of contiguous zoning and he doesn't see this having any positive impact on any of the neighborhoods surrounding the area. Mr. Lancaster said he is absolutely opposed to this request to re-zone the lots in questions. Commission Skipper said she concurs and opposes it because of the density and that there is single family around. Commissioner Keith said he is totally opposed to this and that he is opposed to re-zoning at any time. Commissioner Wilcox said he thinks this is an interesting request, that it doesn't appear all the property owners have signed the petition, not that that matters, but it's inconsistent with the Land Use Plan and most importantly it's inconsistent with the position that Planning & Zoning and the Council have made to protect the single family neighborhoods, therefore, he is opposed to it. Chairman Johnson said he concurs with the Commissioners and reiterate that it is inconsistent with the 1997 Cama Land Use Plan and the amendment recently made to the plan which several times restates that Council will protect the single family neighborhood. It is also inconsistent with the update and he is opposed to this for these reasons.

Motion made by Commissioner Keith to deny request based on its inconsistency with land use plan and the staffs recommendations; seconded by Commissioner Lancaster; all ayes.

ITEM #7 Amend Article 23, Definitions of High Rise. Planner Parvin read the September 29, 2005 memo as follows:

Planning and Zoning asked staff to add "High Rise" as a definition in the zoning ordinance. The Planning & Zoning Commission discussed this at its September 08, 2005 scheduled meeting and unanimously recommended adopting the definition to read:

"A multi-story building over five stories and/or fifty feet"

This item was heard at the October 11, 2005 Town Council meeting. It was recommended to be sent back to Planning and Zoning for further review at the November 10, 2005 Planning and Zoning meeting. The below information was not discovered until after the Planning and Zoning Commission meeting.

NC Building Code Definition

High rise: Buildings having occupied floors located more than 75 feet above the lowest level of fire department vehicle access.

1997 Land Use Plan

Excerpt from 6.2.6 Fire

The department also has one aerial truck (75' vertical reach*), one hose van and one utility van.

*All "high rise" structures at Carolina Beach, i.e. those structures which cannot be effectively reached by the Town fire fighting equipment, are required to have sprinkler systems.

Commissioner Lancaster asked Planner Parvin if staff had a recommendation and Planner Parvin said staff does not have a recommendation whether it's 50' or 75' or 60'. Planning staff asks that the Commission review all presented research and make a recommendation. Chairman Johnson said that in looking at all these major towns, it seems that we're consistent with every one of them. Commissioner Wilcox asked what it is that Counsel is concerned about and Planner Parvin said he believes they just want the language researched to make sure that the building codes and Land Use Plan have been looked at before making a decision.

Motion made by Commissioner Lancaster to open public hearing; seconded by Commissioner Keith; all ayes.

Speaking:

Leroy Franks, 908 Canal Dr. – Mr. Franks said he feels that any building which exceeds 60' in height should be considered a high rise. Chairman Johnson advised that currently anything over 50' is considered a high rise.

Motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Discussion by the Board. Chairman Johnson said he sees no reason whatsoever to change from what we recommended. Commissioner Keith said he sees no problem and asked if we are saying it's over five stories or over 50' and Commissioner Wilcox said no, it's *and/or*. Commissioner Wilcox said he has no problem with this. Commissioner Skipper said she is fine with it. Discussion was held and it was decided to change the "*and/or*" to "*or over*".

Motion made by Commissioner Lancaster to recommend to Council a minor change to the definition of High Rise in Article 23 to read: "*a multi-story building over 5 stories or over 50 feet*"; seconded by Commissioner Keith; all ayes.

ITEM #8 Amend Article 12.2, Development Standards for particular Uses. Zoning Administrator Hardison read the following memo:

Multi-Family Residential Subordinate to a Business Use – Central Business District (Amended 06/04/04, Ordinance No. 04-555)

This type of use, when allowed under a Conditional Use Permit, shall have the commercial use on the ~~ground~~ first habitable floor of the structure (~~street-seape~~) facing the public right of way, with multifamily residential use or commercial use on the second floor and remaining upper level floors.

Mixed Use Commercial-Residential.

This type of use, when allowed under a Conditional Use Permit, shall have the commercial use on the first habitable ~~ground~~-floor of the structure facing the public right-of-way or other public space, with the residential use or commercial use on the remaining upper level floors. ~~on the second floor~~ or to the rear of the ground floor commercial space. The architecture of the structure must be compatible with the surrounding architecture of the area in which it is located. For example, a mixed-use commercial-residential structure in the NB district should be compatible with a residential style of architecture or better.

Chairman Johnson said that he is concerned, especially in the CBD or anywhere along the HB, MX, T-1, etc., and doesn't think it would be very appealing to see concrete piling going up and the first livable floor is ten feet in the air with the exposed pilings underneath. Zoning Administrator Hardison said that none of Lake Park is in the V zone except possibly the southern end in which case you have the opportunity to flood proof any commercial sites. Commissioner Wilcox said from a business point of view, he would hate to create a situation where you are requiring all businesses to be on that level and then having a lot of empty space. Chairman Johnson said it sounds as if we have no choice in the V zone. Chairman Johnson asked when this will go into effect and Planner Parvin said on April 3, 2006. Chairman Johnson asked if this was issued by FEMA and Planner Parvin said yes. Chairman Johnson asked if this means we have no control to change this and Planner Parvin said a letter of map amendment. Chairman Johnson referred to the map and said if, for instance, you look at Canal and Scallop Lane, this is telling him that everything west of that line is 18'. Commissioner Lancaster said it would be 16'. Chairman Johnson said it seems to be bordering the east side of Canal Dr. but not Canal Dr. itself or right across the street and does this mean we have a five foot difference? Discussion was held as to the heights and what applies where. Commissioner Wilcox said these heights will create a lot of wind problems. Planner Parvin said you can appeal certain aspects of the maps with a letter of map amendment.

Commissioner Lancaster referred to the fourth line of the last paragraph where it says "*ground floor commercial space*" and said to make it consistent, this should read "*habitable floor commercial space*". Commissioner Wilcox said since we can not enforce the architectural structures being compatible with surrounding structures he would recommend we remove the entire last sentence of the last paragraph where it starts with "*The architecture of the structure must....*".

Motion made by Commissioner Keith to open public hearing; seconded by Commissioner Lancaster; all ayes.

There being no speakers, motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Motion made by Commissioner Lancaster to recommend revisions to Article 12, Ordinance #04-555 to accept staff recommendations for multi-family residential subordinate omit a business use in the central business district as amended 06/04/04 and as modified in this forum for mixed use commercial residential as discussed and amended; seconded by Commissioner Keith; all ayes.

ITEM #9 Amend Article 3.9(b) 6 Allowable intrusions into required yard setbacks for residential zones. Planner Parvin read the November 3, 2005 memo as follows:

Cantilevering of structures is currently restricted to 2 ½ feet for balconies, decks, and bay or box windows. Several homes have been allowed a one foot cantilever into the side setbacks for the entire length of a building just on corner lots. On these lots the applicant was not allowed the 2 ½ foot cantilever. The current administration is not granting the 1 foot cantilever due to no language existing in the zoning ordinance to support this interpretation. Some possible changes are listed below starting with the least restrictive. Planning staff has received input from members of the community who support each of the alternatives. Staff is requesting the Planning and Zoning Commission review Article 3.9 (6) to determine if any changes should be made.

1. **On corner lots a one foot cantilevered setback may be allowed.** Allowing a one foot cantilever in addition to the 2 ½ foot existing allowances.
2. **On corner lots a one foot cantilevered setback may be allowed for each side of a building in lieu of any additional cantilevered structure.** Allowing either a one foot cantilever for the entire length of a building or the 2 ½ foot cantilever existing allowance.
3. **Keep existing language.** Limiting cantilevers to the current administration's interpretation (2 ½ for balconies, decks, and bay or box windows).
4. **Eliminate existing allowances.** Eliminating allowance of cantilevered structures into the setback.

Allowable intrusions into required yard setbacks for residential zones. Allowable intrusions into required yard setbacks for residential zones. Elevated heat pumps, heating and air-conditioning units may intrude into the required setback no more than (3) feet. Metered Platforms that are in a flood zone may intrude into the required setback no more than four (4) feet. Support post, if required may intrude into the setback no more than three (3) feet. If two utilities platforms of adjacent properties both encroach into the setback the latter shall be staggered. Architectural embellishments such as roof overhangs, cantilevered balconies for decks, and bay or box windows may intrude into the required setbacks by no more than two and one-half (2 1/2) feet. Only the toe or termination of a set of stairs may encroach two and one-half (2 1/2) feet beyond the required setback. It is not the intent of this provision to allow or encourage structures to overbuild on lots but, rather, to accommodate special situations relative to the second-floor and other upper floors, or structures. (Amended 7/12/05 by Ordinance 05-598)

Commissioner Wilcox asked if this came about because people with corner lots are coming in trying to get some livable area and Planner Parvin said previously it was allowed on six or seven lots and the last one that came in since he has been here he would not allow it, but told them he will present it to Planning & Zoning. Commissioner Wilcox said that on corner lots, we should look at the intent of the setback which is to create a triangle line of site. Commissioner Wilcox said he has no problem with the cantilever going all the way down that side as long as the line of site isn't disturbed. Chairman Johnson said he would like to see research by the staff before we came up with the 2 ½ that we have now and the reasoning.

Motion made by Commissioner Keith to open public hearing; seconded by Commissioner Wilcox; all ayes.

Speakers:

Margo Walker, Sandfiddler & Canal. Ms. Walker said she is very much for eliminating any existing allowance. The reasoning is for visual, for fire trucks, cars, etc. to be able to see and it should stay that way. Ms. Walker said they are building a duplex next to her which will block some of her ocean view and one foot will make a big difference to her. The setback is 12 ½' and should stay that way. Commissioner Wilcox said the original intent of the setback was to create a line of site for traffic, not to create better views for people across the street.

Motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Motion made by Chairman Johnson to table this to the December 8, 2005 meeting and have staff do the research as how we got to the 2 ½ ' cantilever; seconded by Commissioner Lancaster; all ayes.

ITEM #10 Amend Article 18.2, Non-conforming lots. Chairman Johnson announced that a Special Meeting will be held on December 1, 2005 at 7:00 p.m. to review Article 18.2, Non-conforming lots only.

ITEM #11 Non-Agenda Items. Chairman Johnson said he would like to leave a wish list. He would like for the Planning Dept. to bring forth to the Planning & Zoning Commission the following items:

1. Review the current density of MH, MF and MX.
2. Add in the Ordinance density for the MB zone.
3. Consider changing density in T-1 for the single family/duplex portion.
4. Look into political sign ordinance and clean it up so it's clear.
5. For December 8, 2005 meeting, Article 22.7. Chairman Johnson said he does not understand prohibiting certain testimony when an applicant comes in requesting a re-zoning change. Commissioner Lancaster added that it doesn't do much good to look into the past of what applied if you don't know what the change is going to bring.
6. Review residential R-1b, R-2 & R-3 as far as building height.
7. Advertisements for P&Z meetings and that it needs to be a requirement of the Town to notify adjacent property owners and not done out of courtesy.

Commissioner Lancaster announced that he will be resigning from the Planning and Zoning Commission following the December 8, 2005 meeting.

ITEM #16 Adjournment. Motion made by Commissioner Keith to adjourn; seconded by Commissioner Lancaster; all ayes. Meeting adjourned at 10:20 p.m.

Respectfully Submitted,

Renee M. Fitzpatrick, Secretary
Planning & Zoning Commission