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Pat Efird
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TOWN OF CAROLINA BEACH
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PLANNING & ZONING COMMISSION MINUTES

December 8, 2005

7:00 P.M.

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

ITEM #2 Minutes. None available for review.

ITEM #3 Conditional Use Permit request from New Hanover County Board of Education to add five classrooms, one boys restroom, one girls restroom and a cross-corridor connecting to the existing buildings located at 400 south 4th St. Director Harrell read the December 1, 2005 memo as follows:

BACKGROUND:

The applicant is proposing to add five(5) classrooms, one(1) boys' restroom, one(1) girls' restroom and a cross corridor connection to the existing building. As previously requested by the Town, additional parking will be added using the parcel at the southwest corner of Clarendon Avenue and Fifth Street. The school is located at 400 S. Fourth Street and is bounded by Fourth Street, Clarendon Ave., Fifth Street and Atlanta Ave. and is zoned R-3. The property abuts R-1 on its east side and is bounded on the other three (3) sides by R-3. The property is 34,499 square feet of upland area (3.01 acres).

ANALYSIS:

Zoning

In R-3, maximum allowable lot coverage is 40%; existing school structure coverage is 30.1%; proposed addition's coverage is 6% for a total of 36.1% (Note: plans erroneously denote lot coverage of addition is 15.4%) Set backs in R-3 are 25ft. front, 10ft. back and 7.5ft side. Setbacks are met by project. Building height with additions is under 50ft. Property is located in 100 year flood plain.

Parking

Parking required is 65 spaces (60 employees + 5); school relies on 26 off-street (offsite additional lot being added at southwest corner of Clarendon Ave. and Fifth St. across from school property) and 44 on-street spaces.

Landscaping

Per TRC comments, a five (5) foot sidewalk is proposed to be constructed around the perimeter of the school property and five(5) foot sidewalk along the front of the proposed off-site parking lot on corner of Clarendon and Fifth. Parking lot requires Type A(five(5) foot) landscape buffer; five(5) foot buffer is shown to include a proposed fence, however plantings shown do not meet

Type A requirement(one(1) canopy tree, two(2) understory trees and three(3) shrubs per 50 linear feet. Buffers around school property proper not required as the project does not exceed 50% of appraised value.

Stormwater

Stormwater runoff from the addition will be diverted to a sub-surface management system and likewise a sub-surface management system will be installed in the proposed new parking lot.

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

TRC REVIEW

The Technical Review Committee reviewed this proposal at its November 21, 2005 scheduled meeting. The TRC recommendations for the project were:

Fire:

Consider sprinkling the building. The building is now 39,000 square feet with 8,000 square feet of expansion planned. Under fire code, all new structures over 20,000 square feet need sprinklers. The proposed project would more than double the minimum code requirement and would continue to be a non-conforming use. This addition and previous ones do not exceed the 50% rule, so it is fine legally, but questions remain regarding the safety of the structure and the hazards it may pose to students. **In order to avoid costs to install sprinkler system, school district proposal is to divide school into "Fire Areas" not exceeding 20,000 sq. ft. each protected with 2-hour "Fire Barrier" construction vertically.**

Operations:

Need to accommodate for stormwater created by the additions' impervious surfaces. Consider using an underground cul-tech drainage system.

Pave gravel parking area if it will continue to be used for parking.

Avoid using pavers.

Extend sidewalk to 5th Street and put sidewalks around perimeter of the property.

Curb and gutter are required around property's perimeter

Coordinate the plantings in the town right-of-way at Clarendon and 5th and obtain a maintenance agreement

School district's site plan does not include curb and gutter. Note: curb and gutter per Town's zoning ordinance is only required for new development and redevelopment that exceeds 50% of appraised value; neither applies to school.

Police:

Consider creating a turning lane into the property

Consider prohibiting left turns on westbound Atlanta Ave. during school hours

Left turn lanes will have to be coordinated with Town.

Planning:

Meet the town's requirements for site plans

On site plans show what is 150 ft. beyond the property and indicate the use of properties

Need to show a property boundary (metes and bounds description)

Include total usable floor area in narrative and mention moving the playground

Vicinity map needs to be to scale

Include an estimated cost of construction in the narrative

In narrative include a statement relative to impact on existing infrastructure, natural environment and adjoining lands

Show that you are using a Type B 10-foot buffer

Calculate the new parking to be provided on site depending on number of employees. Arrange an agreement with the town regarding on-street parking

School still needs to provide in narrative metes and bounds description, usable floor area, and mention moving playground. Additionally, Type A 5-foot buffer is the requirement around the new parking lot, not Type B; Type A is on school plans, but plantings depicted in buffer are wrong.

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.
13. Prior to issuance of a building permit, a plan that includes a grading schedule and construction schedule shall be approved by the TRC.
14. 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.
15. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
16. Approval Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.
17. 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.
18. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
19. 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.
20. Sidewalks curb and gutter shall be installed in accordance with Article 8 of the zoning ordinance and be ADA compliant.

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. **Written approval from the N.C. Dept. of Insurance approving the school district's protection plan(i.e., no sprinklers – use of 20,000 square foot "fire zones" with appropriate fire walls) prior to the issuance of a building permit.**

Director Harrell advised that a new plan has been distributed and that the only difference between that and the original submission is the section referring to ground coverage. The old plan had 15% for the addition and it is 6%.

Commissioner Lancaster said that on the north side of the building in the grassed area they have about 12-14 spaces for cars and would like to know if they intend to do something about that. Director Harrell said it is his understanding that the additional parking will take care of the grassed area.

Director Harrell advised that it was discussed at the TRC meeting to have no left turn westbound onto Atlanta Ave. and it should be Fourth during school hours as this would allow less traffic going against the flow of traffic turning into the school at the end of the day. Director Harrell said it was also discussed to add a stacking lane (turning lane) on Atlanta Ave. that allows for traffic to turn in during those heavy times. Director Harrell added that they would have signs to not allow left turns during school hours going down Atlanta. During the heavy hours it would prevent the amount of traffic traveling west on Atlanta and one alternative would be to set the hours for that left turn. Commissioner Wilcox asked what purpose that would serve and Director Harrell said there would be less traffic going westbound in two-way traffic during those hours. Commissioner Wilcox asked what it is we're trying to avoid since, during those hours, that traffic is stacked up solid in the other lane so what would be prevented by not allowing traffic to flow in the opposite lane. Director Harrell said there would be less traffic overall. Commissioner Wilcox referred to the 44 spaces being proposed and asked if they are the existing spaces being used to which Director Harrell said yes. Commissioner Wilcox said that we are not really having them adding 65 spaces and Director Harrell said they are including the 44 spaces in the 65 space total and this is the requirement for the whole school. Commissioner Wilcox asked what type of fence is being proposed on the parking lot and Director Harrell said the applicant can answer that. Commissioner Wilcox referred to the fire requirements and asked if the schools get reviewed by DOI prior to acceptance. Director Harrell said he would imagine the Dept. of Insurance has something to say about it. Commissioner Wilcox said that he would think the DOI will require at a minimum to have sprinklers in the 8,000 sq. ft. section and he feels strongly that we make the recommendation that at a minimum the 8,000 sq. ft. has sprinklers. He would also think that a project of this scope be considered for sprinklers in the rest of the structure as well. Commissioner Skipper asked if the playground square footage is going to be lessened and Director Harrell said that the site plan indicates that what is existing will be moved as is so his impression is that it will be exactly the same size. Commissioner Lancaster referred to the landscape buffer and said he thinks the fence they are looking for is six feet high and Planner Parvin said it is but he doesn't believe it's required for a type A buffer around the parking lot. This is something that the applicant added in.

At this time the applicant, Mr. Carmen Gintolli, addressed the Commission and said that in regard to the fence, it is to just increase the buffer between the parking lot and houses. Commissioner Lancaster asked the applicant if his staff has discussed the sprinkler system and Mr. Gintolli said the budget does not allow for sprinklers and the DOI does not require it. Commissioner Wilcox asked about the new square footage and Mr. Gintolli said no. Commissioner Wilcox asked if this has already gone to DOI and Mr. Gintolli said no. Commissioner Wilcox said he would still like to see how they look at it because he doesn't know of any exception when building new space that allows you not to build it per 100% per code and per code is a sprinkler. Mr. Gintolli advised that they divide the building up into 20,000 sq. ft. sections and install firewalls. Commissioner Wilcox asked why they divide it into 20,000 sq. ft. and the architect, Mr. Warren Wilson, advised that there is a rating system that's involved and they have to show, based on existing conditions, what that rating system indicates would be required. Mr. Wilson said that DOI would probably require them to do that now.

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

Speaking for:

Lonnie Lashley, 102 Florida Ave. Mr. Lashley said that he didn't hear anything about a shelter being added to this. That the children should be outside and he would recommend expanding on this.

Mr. Wilson (Architect) approached the Commission to advise that they will be relocating the shelter.

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

Discussion by the Board. Commissioner Wilcox said he would like to see staff add to the recommendations that the DOI review this specifically for the fire requirements and if there is any way possible the new construction could include a sprinkler system, it would be a starting point. Commissioner Kopitopoulos said he thinks it's a great project and the idea of adding classrooms to the school is beneficial to the community. Commissioner Keith said that he is also concerned about the sprinkler system, but other than that he is fine. Commissioner Efirm said she agrees with the plan. Commissioner Skipper said rooms are always better than trailers. Commissioner Lancaster asked if anyone has assessed the growth in the community and if that went into the calculations. No response.

Motion made by Commissioner Kopitopoulos to approve the project with Commissioner Wilcox's condition that the plan be approved by the DOI (Department of Insurance); seconded by Commissioner Efirm; all ayes.

ITEM #4 Conditional Use Permit request from Sherron Custom Homes, Inc. for a 5-plex located at 1404 & 1406 Pinfish Lane and 703 Ocean Blvd. Zoning Administrator Hardison read the November 29, 2005 memo as follows:

BACKGROUND:

The applicant proposes to construct a five 4 bedroom attached units with a swimming pool on 3 lots for a total of 15,000 square feet (100 X 150) located at 1406 Pinfish Ln, 1404 Pinfish Ln, and 703 Ocean Blvd. in the MH Zoning District under Planned Unit Development. Each unit will have 4 bedrooms Planned Unit Development may be allowed as a conditional use in MH 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:

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. 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 + *0.5 per bedroom over 2 (unobstructed). The applicant is providing 15 parking spaces (See Attached Site Plan). 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 this proposal at its November 21, 2005 scheduled meeting. The TRC recommended the project to be submitted to the Planning and Zoning Commission with the following comment:

Fire:

Fire alarm, sprinkler and knocks box needed.

Operations:

Stormwater plan needed.

Planning:

Meet site plan requirements

Depict property lines on site plan

Include the dimensions of the lot and building

Include the scale on the site plan

Meet requirements for narrative

There are no vested rights

Limit driveway cuts and eliminate vehicular access on Ocean.

Prepare another parking plan. You can stack parking as long as you have two unobstructed per unit (one can be stacked). Need 15 spaces. Spaces must be 9x18 in size (label these on site plan).

Landscaping needs to start on your property. If you want to landscape the right-of-way, you may with a maintenance agreement from the town. But that landscaping will not count toward your landscape requirements.

Need to meet landscape buffer requirements – use a 5-foot vegetative buffer.

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-
 - a. 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.

Commissioner Wilcox asked if a density was run on this and Zoning Administrator Hardison said he believes its 5.1 units per acre. Commissioner Skipper asked if there will be a fence and Zoning Administrator Hardison said yes. Commissioner Wilcox asked what the setback on Pinfish will be and Zoning Administrator Hardison said from the house its 10' for the side and Commissioner Wilcox asked if the deck has a raised platform it would be 7 ½' and Zoning Administrator Hardison said yes.

At this time the applicant, Art Heiser Addressed the Commission and said that the setbacks off of Ocean Blvd. is a 20' minimum and they are set back 20'. The Pinfish will be 13' with minimum of 12.6' and the setback off the side lot will be 14'. The setback off of the rear of Ocean is 12'. The deck is five feet back and they are thinking about lowering it down to ground level. The landscape plan has 42 under story trees and 105 shrubs. At this time the applicant went through slides of the plan. Commissioner Wilcox asked what TRC's thought process is when they put all that additional pervious surface in so the drive doesn't exit out to Ocean? Mr. Heiser said he doesn't believe it was a pervious decision, but rather that they didn't want the access coming out on a main thruway. Commissioner Wilcox said there are driveways and parking spaces coming out on Ocean all the way down and he's just pointing out the fact that we're kind of on a campaign to reduce the impervious surface and then a recommendation is made to increase it in order to limit one driveway access into Ocean and this doesn't make sense to him. Director Harrell said that the reason for this was to eliminate yet another driveway onto an already business street. Commissioner Wilcox said he's sure that's the reason, however, he doesn't see what one more driveway to a single family residence will do. Director Harrell advised that the Commission could recommend to Council that the driveway be located on Ocean Blvd. because of concern about impervious surface, that would be fine and Commissioner Wilcox said it could also be recommended that the apron of the driveway be concrete and the rest of it pervious surface.

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

Speaking for:

Jerry Jones, 707 Ocean Blvd. Mr. Jones said that he has a property adjacent to this project and came here with intent on voicing his opposition; however, in looking at this project as set up, he would welcome them as neighbors.

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

Discussion by the Board. Commissioner Wilcox said this looks like a good project. Commissioner Kopitopoulos said this is a good example of gentlemen who could have built three duplexes but chose to go with the planned unit development and opted to be creative and he agrees with Commissioner Wilcox regarding the pervious surface. Commissioner Keith said it's a nice project. Commissioner Efird said she likes the project. Commissioner Skipper said she also likes the project.

Motion made by Commissioner Lancaster to approve the request for a conditional use permit to construct a five-unit residential structure in a planned unit development at 1404 & 1406 Pinfish Ln. and 703 Ocean Blvd. with the proviso 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 and all staff recommendations; seconded by Commissioner Wilcox, all ayes.

ITEM #5 Commissioner Lancaster advised that this has been pulled from the agenda.

ITEM #6 Conditional Use Permit request from Rockford Partners, LLC for an eleven-unit condominium located at 406, 408 & 410 Canal Dr. Planner Parvin read the December 8, 2005 memo as follows:

BACKGROUND/HISTORY:

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.

ANALYSIS:

Zoning

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 for this project (applicant proposed 11 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.

Parking

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.

Landscaping

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.

Infrastructure

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.

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 November 21, 2005 scheduled meeting. The TRC recommended the project to be submitted to the Planning and Zoning Commission with the following comment:

Fire:

1. Need sprinkler and stand pipe system.
2. Make sure the hydraulics work.
3. Need to improve gallons per minute flow. Now has 1,150 gallon/minute fire load. State needs 3,500 gallon/minute fire load. If the engineer cannot guarantee this, loops may be needed from CBAN. Need 12 inch connections from CBAN.
4. If possible, extend 12 inch line from Arcadius, which stops at Dolphin. This needs to be part of the project and must be completed before construction begins.

Operations:

5. Check with operations concerning utility extensions to improve fire load.
6. Get a stormwater plan and make sure it holds 100% of stormwater on site.

Planning:

7. Pool has to meet commercial requirements.
8. Need floor plans
9. Proposed wooden fence must be 6 foot fence with 80% opacity
10. Vicinity map needs to be to scale
11. Need a metes and bounds description

12. Include the size of the footprint in narrative
13. Include total parking spaces in narrative.
14. Ask for a waiver from landscape ordinance for parking places in landscape buffer (7&22)
15. Clearly note dimensions of the lot
16. Include the percent of open space on the narrative and site plan
17. Note on site plan that project is in a CAMA area of environmental concern
18. *Written Application.* The written application shall include:
 - (1) Project description parking spaces(total number, size, amount obstructed), % of open space (ask for a variance in the front buffer yard to allow for parking). Six foot fence with 80% opacity.
 - (2) Written statements relative to project's impacts on existing infrastructure (including capacity of streets, schools, and utilities) and on the natural environment of the site and adjoining lands.
- (19) *Site plan drawing(s).* show the site and all land within 150' of the site.
 - (1) The names of adjoining recorded subdivisions, and owner(s) and use of adjoining property.
 - (2) Existing topography and proposed finished topography in relation to mean sea level with a maximum of two (2) foot contour intervals.
 - (3) Location and dimensions of all existing structures and improvements adjacent to and on the site, including but not limited to:
 - a. Sanitary sewer systems
 - b. Water mains
 - c. Storm drainage systems including natural and man made.
 - (4) Location and delineation of all existing natural features and environmentally sensitive areas adjacent to and on the site, including but not limited to:
CAMA Areas of Environmental Concern (AEC's), Ocean Hazard Area AEC
 - (5) Location of all proposed structures and improvements, typical details, including but not limited to:
 - a. All proposed streets and alleys and the boundaries of all other areas intended to be dedicated to public use
 - b. Principal and accessory buildings and structures to include:
 3. Number of dwelling units
 6. Entrances and exits of the proposed buildings (need a floor plan)
 - c. d. Sanitary sewer systems with appropriate details
 - d. Water mains with appropriate details
 - e. Recreation areas and open space areas with type(s) of improvements including the location, dimensions and details of common areas and facilities such as community buildings or swimming pools if applicable.
 - e. Plans for collecting and disposing of storm water entering and collected on the site. The design of these systems must meet the specifications of Article V, Section 12-211 to 233 of the Town Code of Ordinances.
 - f. Location and refuse disposal facilities and type.
 - (6) Proposed grading schedule, including time of the year when grading will be in progress.
 - (7) All dimensions, both linear and angular, for locating boundaries of the site, lots, streets, alleys, easements, required setback lines, and monument locations.

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspection. Multi-family development is allowed with the approval of a Conditional Use Permit for T-1 zoned properties. Staff recommends the following conditions if the proposal is to be recommended for approval:

1. 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.
2. Drainage plan must be submitted and approved prior to issuance of a building permit. The drainage 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. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
4. Approval from the Division of Water Quality for a CAMA Permit.
5. Approval Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.
6. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
7. Flood Certification must be presented prior to issuance of certificate of occupancy.
8. 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'. Prior to Certificate of Occupancy, an architect or engineer must certify structure does not exceed 50 feet in height
9. 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 22 parking spaces.
10. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
11. 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.
12. Refuse collection agency that will be used must be included on final site plan.
13. All structures must be designed to meet NFPA approved Fire Sprinkler systems and meet minimum NC Fire Prevention Code. Approval letter must be submitted prior to Certificate of Occupancy.
14. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
15. A sign permit must be obtained for any new signs located on the property.
16. Maintenance of permanent open space parking, streets, drainage systems, utilities, and other such facilities-
 - a. 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 mixed use 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.

17. 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.
18. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
19. 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.
20. 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 Article 14 of the zoning ordinance.
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. Water meters must be relocated in the right-of-way and run 11 lines to the units.
23. 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.
24. All lots utilized for the project shall be combined before issuance of a Certificate of Occupancy.
25. Existing pool shall be upgraded to commercial code requirements
26. Sidewalks curb and gutter shall be installed in accordance with Article 8 of the zoning ordinance and be ADA compliant.

Commissioner Lancaster asked when they plan to build because it appears they intend to as soon as the approvals are received and Planner Parvin said he believes so. Commissioner Lancaster asked if the conditions imposed include the development or combination with the 12" main and the testing if necessary to achieve the 3500 gallon/minute fire load hydraulic pressure recommended by the fire dept. and Planner Parvin said yes. Commissioner Lancaster asked if the applicant knows he has to do this by himself and Planner Parvin said that was discussed at the TRC meeting if the Arcadia project is not in place or not built he would have to do that. Commissioner Lancaster asked if the developer is aware that if that doesn't correct the pressure requirement that he will need to install the loop back up to the Carolina Beach Ave. North. Commissioner Wilcox asked if the garbage canisters in the front are going to have a coral and Planner Parvin said they will have roll-a-ways that are stored in the rear and rolled out to designated spots in the front for pick up. Commissioner Lancaster referred to condition #22 regarding the water meters being relocated and said we need a general comment out there stating that water meters must be located in the right-of-way and individual lines run to each unit. Commissioner Lancaster said that #21 is the same as #18 and one should be removed.

At this time the applicant, Mr. James Yopp addressed the Commission and said they are obtaining quotes and designs by three different fire protection companies and are working on the best way to handle the water problem. Commissioner Lancaster said he received a letter from one of the neighbors and read it as follows:

November 30, 2005

Members of the Planning & Zoning
Commission of Carolina Beach

Dear Members:

I am writing to express my concerns regarding the conditional use permit requested from Rockford Partners LLC for an 11 unit condominium building located at 406, 408, and 410 Canal Drive, Carolina Beach. I am a homeowner at 411 Canal Drive and I am concerned at the size of the project.

As I am sure you are aware, that portion of Canal Drive is made up of mostly single family homes with one triplex unit at 409 Canal Drive. I feel strongly that the character and the integrity of the neighborhood would be compromised if projects of this size were allowed to be constructed.

I also feel strongly that the current zoning should be enforced so that the building lots are used only for single family homes or duplex construction. I believe that starting to allow projects of this size on Canal Drive will end up resulting in the spread of these large type structures that will compromise the neighborhood as well as create a density of homeowners that the roads and other infrastructure cannot support.

I thank you for considering my comments on this issue. If you have any further questions of me, I can be reached at 412-817-2570.

Commissioner Lancaster said that the purpose in reading this now is to let you know that this meets the current zoning standards so there is no problem there, however, it is a little out of character for the things that immediately surround it. There was some discussion regarding the architectural attractiveness of the site and that although the P&Z doesn't dictate design, there are some guidelines in addition to the fact that if it looks better, it will sell. Mr. Yopp said that they will be addressing the architectural design but wanted to secure the approvals before investing in this.

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

There being no speakers, motion was made by Commissioner Keith to close open hearing; seconded by Commissioner Efird; all ayes.

Discussion by the Board. Commissioner Wilcox said he has no comments. Commissioner Kopitopoulos said that the applicant has jumped through all the hoops we have right now but it's contradictory to everything we were working on with the Land Use Plan, but at the time, they definitely meet all the requirements.

Motion made by Commissioner Wilcox to approve the project based on all recommendations proposed by staff and to include the addition of a condition that says ***“a utility modification in accordance with staff recommendations must be completed prior to the issuance of a building permit”***; seconded by Commissioner Kopitopoulos; all ayes.

ITEM #7 Discussion of maximum residential density requirements for zones MB, T-1, MH, MF & MX. Director Harrell advised that Chairman Johnson requested him to place this item and the next one on the agenda tonight for discussion. Director Harrell advised that he is not looking for resolution tonight, but just to get a feel as to what direction the Commission would like to see staff go when dealing with these particular issues. Director Harrell said that a chart is attached which addresses maximum density in the denoted zones of MB, T-1, MH, MF & MX and Chairman Johnson suggested that it be discussed as to whether or not this should be a uniform 15 units per acre across all of these zones. In talking with the staff, the most recent example of a change was in the R-1 zone which was 17 and is now 15. The others have been in place for a number of years. Director Harrell asked the Commission for suggestions. Commissioner Wilcox said that there was a lot of discussion when addressing the R-1, but he has a concern over just arbitrarily changing different zoning densities to make the numbers look nice. Commissioner Wilcox would want to know if we are having a problem with the existing ordinance or that by changing it we'd be heading off a problem. Commissioner Wilcox said that it's common for different zoning areas to have different densities and unless he has more to work with he doesn't know how to look at it. Commissioner Kopitopoulos said that in general he thinks we would all prefer to see some ways that we can reduce the density in the areas this can be done comfortably. Commissioner Keith said he is totally in favor of reducing density and agrees with Chairman Johnson's concept of going with 15. Commissioner Lancaster said that people are trying to get as many units crammed in an area as they can and it's not only dense but it gets ugly. Commissioner Wilcox said he's heard a couple of comments about the Land Use Plan and asked if some of these areas current density are inconsistent with the upcoming Land Use Plan as it addresses those areas. Commissioner Lancaster said we changed the intended use of some to broaden a number of residential areas. Commissioner Wilcox said that the unit we just reviewed with 11 units, he didn't think was attractive but even if the density were different and it were 9 units, there is no guarantee the building would be attractive and he doesn't want to get to a point where we are trying to impose appearance standards via the density. Commissioner Wilcox suggested that some type of analysis be done possibly comparing the Land Use Plan or talk to different members to find out if there are any other logical applications to come up with appropriate densities. Director Harrell said he believes he understands what the Commission is looking for and will look into it.

ITEM #8 Discussion of need for Article 22.7 “Prohibition of certain testimony”. Director Harrell advised that the current code basically prohibits an applicant from coming forward with the specific plan of use for the property. This is done as an approach to make sure that any deliberations by the Commission or Council don't bind the specific use by the applicant to that property or approval/disapprove rezoning based on the specific use of the property. That would be contract zoning. Some municipalities have this language and some do not. Director Harrell said he contacted the School of Government and was told that there is no requirement but if you do allow an applicant to discuss specifically what they plan to do, the Commissioner and/or Council have to be sure to understand at all times that whatever decision you make, be made that every use in that zone is allowed on that property.

Director Harrell said that the most conservative approach is what we have and that is to not let the applicant say what the intended use is. In this way, you can not be accused of having made the decision based on the intended use. Commissioner Wilcox said he thought at first that this language was kind of silly and then looking at it more; he understood the deeper meaning for it. Commissioner Wilcox continued that someone could build what they say they intend on building, then a storm could take it down and someone could build something different. Therefore, he feels we need to stick with the guidelines for the rezoning and not let the intended use color that decision. At the same time, he doesn't believe it would hurt to hear it, he could go either way. Commissioner Kopitopoulos said he understands what Commissioner Wilcox is saying and if we just consider the general best use for the land when considering an application, it would avoid a conflict. Commissioner Keith said he can't ever image voting to rezone something. Commissioner Efir said she sees it both ways. If the applicant tells you what they're going to do, and you vote for it, it could appear you are doing so just for them. Commissioner Skipper said she agrees with Commissioner Keith that we should know. Commissioner Lancaster said it would be a fairly easy job for someone really interested in getting a rezoning done to come in and meet all the guidelines and without being really specific, present the pros and cons. Commissioner Lancaster said it would not bother him at all to leave the language as it is and if the applicant does a good job with his request, then it can be rezoned. Director Harrell said that the only admonishment he received from the School of Government was that you need to be very careful that you don't rely on any representation by that applicant in your decision making process. That you consider the full range of uses. Further discussion was held and Director Harrell suggested that a motion be made to move this forward for public hearing and consideration by the Commission and onto Council. All the Commissioners were in favor of this and it was seconded by Commissioner Keith; all ayes.

ITEM #9 Non-Agenda Items. Commissioner Lancaster announced that he will not be continuing as a Commissioner but would be available for special work on the Land Use Plan. Therefore, an election for a new Chairman and Vice-Chairman is necessary.

Nomination was made by Commissioner Kopitopoulos that Commissioner Keith be made chairman. Commissioner Keith accepted. Nomination was made by Commissioner Skipper that Commissioner Wilcox be made Chairman. Commissioner Wilcox accepted.

There being no further nominations, Commissioner Lancaster asked for those in favor of Commissioner Wilcox. Those in favor were Commissioners Wilcox, Skipper & Efir.

Commissioner Lancaster asked for those in favor of Commissioner Keith. Those in favor were Commissioners Keith, Lancaster and Kopitopoulos.

There being a tie vote, Commissioner Keith said he would like to withdraw his nomination as chairman. Commissioner Lancaster asked for a new vote in favor of Commissioner Wilcox as Chairman. Vote was unanimous for Commissioner Wilcox as Chairman.

Commissioner Wilcox nominated Commissioner Keith as Vice-Chairman. Commissioner Keith accepted and all voted unanimously for Commissioner Keith as Vice-chairman.

Commissioner Skipper asked if there was a certain time period to get the minutes and Commissioner Lancaster advised that the minutes are in the backlog due to the position being part time. Director Harrell said they are also verbatim minutes and that takes longer. Commissioner Lancaster said the secretary has to listen to the comments being made, separate them from background comments and put them in a cohesive form and Commissioner Skipper asked if we have to go verbatim and Director Harrell said you do not. Commissioner Lancaster said that he can assure Commissioner Skipper that the quality of the minutes in the last 1½ years have been excellent compared to what they were prior to that and for him they are worth the wait. Planner Parvin added that we have kept our part time person heavily tasked as well.

ITEM #10 Adjournment. Motion made by Commissioner Lancaster to adjourn; seconded by Commissioner Wilcox; all ayes. Meeting adjourned at 9:45 p.m.

Respectfully Submitted,

Renee M. Fitzpatrick, Secretary
Planning & Zoning Commission