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PLANNING & ZONING COMMISSION MINUTES

April 14, 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, Mike Kopitopoulos, Mike Newkirk and Dan Wilcox. Those absent were: Sarah Harris. Also present was Scott Chase, Director of Planning and Development; Jeremy Hardison, Zoning Administrator; Ed Parvin, Long Range Planner; Mike Hoffer, Code Enforcement Officer and Renee Fitzpatrick, Administrative Support Specialist.

ITEM #2 Minutes for March 10, 2005 were approved with corrections on motion made by Commissioner Lancaster; seconded by Commissioner Kopitopoulos; all ayes.

At this time, Chairman Johnson advised that Item 6 will be reviewed last in order to get through the smaller items.

ITEM #3 Generations of Carolina Beach (Dan Denston) for a take-out Restaurant, 304 N. Lake Park Blvd. Planner Parvin read the April 8, 2005 memo as follows:

BACKGROUND:

The applicant wishes to expand the existing coffee and ice cream shop to operate as a restaurant in the Generations location. The proposed restaurant hours will be:

- ❖ In-season Monday through Saturday 6 am to 10 pm, Sunday 8 am to 9 pm
- ❖ Off-season Monday through Saturday 7 am to 2 pm, Sunday 8 am to 2 pm

The operation will consist of 3 to 5 employees. No alcohol will be served at the site. The property is located in the Highway Business District. Restaurants are allowed by conditional use permit in this zoning district. The applicant will maintain 18 seats and will be required to have 6 parking spaces (See attached floor plan and site plan).

ANALYSIS:

The site is currently being used as a coffee and ice cream shop in the existing 1,428 sq ft building. The applicant wishes to expand the menu to include breakfast sandwiches, hamburgers, hotdogs, and French fries and thus requires a conditional use permit. As indicated on the floor plan the only structural change would be removing a non-load bearing partition wall inside the building. The applicant will maintain 18 outdoor seats (See Attached Floor Plan). Parking is calculated as one (1) parking space per three (3) seats. The applicant would have to provide a total of 6 spaces. Generations is proposing to utilize their existing eight (8) parking spaces to meet this requirement. (See Attached Site Plan)

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

General conditions.

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies.

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspections. Restaurant proposals are allowed with the approval of a Conditional Use Permit in Central Business District zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

- 1) Seating shall be limited to 18 outdoor seats.
- 2) Hours of operation shall be limited to: In-season Monday through Saturday 6 am to 10 pm, Sunday 8 am to 9 pm; Off-season Monday through Saturday 7 am to 2 pm, Sunday 8 am to 2 pm
- 3) No sale of alcoholic beverages will be permitted for this site.
- 4) A sign permit must be obtained for any change in signage or any new signs proposed on the property.
- 5) All permits required by Federal, State, and Local Agencies including the Health Department must be submitted prior to Certificate of Occupancy.
- 6) Any modifications to this proposal (as deemed significant by the Director of Planning or his designee) will require new application for conditional use permit.

The Planning and Zoning Commission heard this proposal at its April 14, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommended approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- 7) 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.
- 8) A sign permit must be obtained for any new signs located on the property.

Motion to open for Public Hearing made by Commissioner Lancaster; seconded by Commissioner Keith; all ayes.

Speaking for: None

Speaking against: None

Motion to close Public Hearing made by Commissioner Keith; seconded by Commissioner Lancaster; all ayes.

Discussion by the Board – Commissioner Newkirk said it doesn't seem to change the nature of what is already there. Commissioner Lancaster said it looks okay to him. Commissioner Keith said it looks fine. Commissioner Kopitopoulos said its fine. Commissioner Wilcox said he doesn't have a problem with the project, but he said he doesn't see anything regarding the dumpster enclosure. Planner Parvin said it already exists and Commissioner Wilcox asked if it complies and if not it should be put in. Chairman Johnson recommended to Planner Parvin that we add it in just for clarification. At this time Commissioner Newkirk asked about the signage and Planner Parvin said he can add in as a condition that they would have to apply for this.

Motion made by Commissioner Lancaster to approve the request for conditional use permit to expand Generations coffee and ice cream shop into a restaurant with the condition that we add to the permit the inclusion of the standard set-up conditions so everyone understands what is required; seconded by Commissioner Wilcox; all ayes.

ITEM #4 Chairman Johnson advised that this item was pulled from the agenda.

ITEM #5 Rezoning – Carey Avent (W.B. Holdings, LLC.). Correct administrative error for zoning from R-1B to MX. Zoning Administrator Hardison read the April 6, 2005 memo as follows:

BACKGROUND:

The applicant desires to construct a multi-unit dwelling at 1102 S Lake Park Blvd. An existing single-family dwelling (to be removed) is located on the property and a small portion of the property is zoned R-1B Residential. According to the Table of Permissible Uses, multi-family dwellings are not permitted in the R-1B district and are allowed as a conditional use in the MX Mixed Use District. The applicant would like for the entire lot to be in one zone. There was an error made by the New Hanover County tax department when they drew the lot lines on the property tax map. The mistake is currently being corrected. The mistake was a 1,600 sq ft triangle that was shown as part of the Carolina Sands common area as shown on the attached map by New Hanover County. The MX/R-1B zoning line followed the mistaken property line when it was zoned.

SURROUNDING LAND USES:

The property is adjacent to the Carolina Sands common area to the north zoned R-1B and a single-family home is to the south zoned MX. Across the street is the Sand Pebbles condo's zoned MF. To the rear of the lot is vacant. Multi-family dwellings are allowed under multi family in MX zoned properties by conditional use. No objections have been raised by the adjacent property owners.

STAFF POSITION:

The current zoning seems to follow a mistaken property line. The only R-1B zoning in this area is the Carolina Sands neighborhood because the section of the applicant's lot has never been part of the neighborhood. It is staff recommendation to redraw the line so that it runs with Carolina Sands property boundary and the applicant's property line.

Motion made by Commissioner Kopitopoulos to open for Public Hearing; seconded by Commissioner Keith; all ayes.

Speaking for: None.

Speaking against: None

Motion made by Commissioner Keith to close Public Hearing; seconded by Commissioner Kopitopoulos; all ayes.

Discussion by the Board. Commissioner Wilcox said it's fine to make it right. Commissioner Kopitopoulos said its fine also. Commissioner Keith said he doesn't see a problem. Commissioner Lancaster said its okay by him. Commissioner Newkirk said its fine with him. Chairman Johnson said he doesn't see a problem with it and it seems pretty straight forward.

Motion made by Commissioner Lancaster to approve the request to rezone property from R1B to MX at 1102 Lake Park Blvd. S; seconded by Commissioner Wilcox; all ayes.

ITEM #7 Zoning Amendment – Amend Article 8 Landscaping and Buffering and rename section as Landscaping and Development Specification Standards. Planner Parvin read the shaded areas of Article 8 which are the recommended changes as follows:

ARTICLE 8. LANDSCAPING AND ~~BUFFERING~~ DEVELOPMENT SPECIFICATION STANDARDS

8.1. Purpose

This article is established for the purpose of regulating, controlling, preserving and setting forth methods of continued maintenance assurances of all regulated vegetation located within the municipal limits of the Town of Carolina Beach, NC, and furthermore establishes authority to regulate and control the degree of impervious surfaces constructed on properties and the placement and configuration of fill soil and materials on properties located within said municipality.

8.2. Benefits of Trees and Landscaping

The Town of Carolina Beach finds it important to adopt an ordinance to preserve and protect trees since numerous benefits are derived from this practice, including the following:

- 1) Maintains the visual character of the community and contributes to the aesthetic quality of property and enhances its value.
- 2) Screens objectionable views within and between uses.
- 3) Reduces glare, heat, and assists in noise abatement, maintaining the climatic balance and decreasing wind velocity.

- 4) Contributes to the process of air purification and oxygen regeneration.
- 5) Assists in the stabilization and fertilization of soil and in the prevention of soil erosion.
- 6) Contributes to the process of ground water recharge and storm water run-off retardation and protecting against flood hazards and erosion.
- 7) Promotes energy conservation by maximizing the shading and cooling effects of trees.
- 8) Provides a haven for birds, reptiles, mammals that in turn help control the insect population.
- 9) Provides nuts and fruits for wildlife.
- 10) Provides important psychological, sociological, and aesthetic counterpoints to the man-made urban setting.

8.3. Applicability

In order to adhere to the above described functions, these regulations shall be applicable to any and all regulated vegetation and to all areas proposed for the reduction of ground absorption area through the construction of impervious surfaces and to all areas proposed for land elevation and modification of configuration by the deposition of fill soil or materials as specified herein or/as may be described by subsequent applicable regulations of the Town of Carolina Beach.

8.4. Authority

NORTH CAROLINA GENERAL STATUTES NO. 160-A-174 (A), 160-A-458.1, 143-214.7, AND 143-215.51

8.5. Definitions

The following definitions shall apply to the regulation and control of landscaping within this article:

- 1) **Buffer yard:** The width of the area for the required installation of landscaping and screening materials around the entire perimeter of all lot uses excluding single-family residences and duplexes.
- 2) **Caliper:** A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch Caliper size, and twelve inches above the ground for larger sizes.
- 3) **Deciduous:** Those plants that annually lose their leaves.
- 4) **Development:** Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, clearing, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 5) **Evergreen:** Those plants that retain foliage throughout the year.
- 6) **Ground Cover:** A prostrate plant growing less than 2' in height at maturity that is grown for ornamental purposes. Ground Covers are used as an alternative to grasses. On slopes, Ground Covers control erosion while eliminating the maintenance of mowing on hillsides. Many Ground Covers survive in poor soils, shade and other adverse conditions.

- 7) **Intensive Commercial:** A business use that has a gross floor area of greater than 10,000 square feet.
- 8) **Landscaping:** The process or product of site development including grading, installation of plant materials, and seeding of turf or Ground Cover.
- 9) **New Construction:** Any construction other than renovation to existing structures where the size or intensity is not increased, which requires a building permit issued by the town, or which results in an increase of impervious surfaces or which requires the placement of fill soil or materials, including, but not limited to, multifamily, nonresidential and parking lot construction.
- 10) **Planting Area:** A ground surface free of impervious material, which is utilized for landscape purposes.
- 11) **Planter:** A structure or area consisting of at least one understory tree surrounded by flowers and shrubs.
- 12) **Shrub:** A woody plant or bush with a minimum height of 2.5 feet and maximum of 10 feet. It is distinguished from a tree by having several stems rather than a single trunk.
- 13) **Street Tree:** A tree planted along the street behind the right-of-way.
- 14) **Street Yard:** A Planting Area parallel to a public or private street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.
- 15) **Tree, Canopy:** Any tree that is normally more than forty (40) feet in height with a spread of at least fifteen (15) feet at maturity that provides shade from its foliage mass; also individual or tree groups forming an overhead cover. Canopy trees should be located so as to minimize potential interference with utilities and avoid sight obstructions. New canopy trees shall be at least two and one-half (2 1/2) inches in diameter measured six (6) inches above the ground and at least eight (8) feet in height.
- 16) **Tree, Understory:** Any tree that is normally less than twenty-five (25) feet in height with a spread of at least five (5) feet at maturity, but that still provides shade and a degree of protection to the earth and vegetation beneath it. Multiple trunk understory trees shall have at least three trunks and be at least six feet in height.
- 17) **Vision Clearance:** In order to maintain an acceptable and safe line of sight for motor vehicle drivers, no fences, walls, posts, signs, lights, shrubs, trees or other type of obstructions not specifically exempted shall be permitted in the space between thirty (30) inches in height from the grade of the street. A sight distance triangle shall be the visually unobstructed area of a street/driveway corner as determined by measuring a distance of thirty (30) feet along the intersecting curb lines, or edges of pavement of the intersecting street/driveway if curbs are not present, and connecting the two (2) points by a straight line to form a triangular shaped area over the corner.

8.6. Buffer yard Landscaping

- 1) A buffer yard, as defined herein, must be provided for all new construction or expansion that is proposed in any amount equal to fifty (50) percent or more of the current tax or appraised value. However, no buffer yard improvements shall be required for those portions of existing lot frontage used for driveways constructed in accordance with town regulations
- 2) It is recommended that buffer yards be landscaped by meeting the requirements of Type A, B, C or D below. A Landscaping/Buffer yard Information Guide and Plant Selection List is available from the Zoning Administrator
 - a. *Type A:* For every fifty (50) linear feet, or fraction thereof, the buffer yard shall contain: one (1) canopy tree, two (2) understory trees, and three (3) shrubs.
 - b. *Type B:* For every fifty (50) linear feet, or fraction thereof, the buffer yard shall contain: two (2) canopy trees or four (4) understory trees, and six (6) shrubs. Any buffer yard that abuts any single-family residence shall provide for a six (6) foot fence with 80% opacity along with planting requirements above.
 - c. *Type C:* For every fifty (50) linear feet, or fraction thereof, the buffer yard shall contain: two (2) canopy trees or four (4) understory trees, and six (6) shrubs. All buffer yards shall provide for a six (6) foot fence with 80% opacity along with planting requirements above.
 - d. *Type D:* For every fifty (50) linear feet of frontage, or fraction thereof, the street yard shall contain: one (1) understory tree with sidewalks or planters built within the sidewalk. **Subdivisions shall provide a Type B buffer on all sides not adjacent to a street.** ~~Five (5) foot wide sidewalks are required for properties facing NCDOT right-of-way and for properties facing Town regulated right-of-way. Street yards located within the CBD shall include sidewalks with planting areas either adjacent to the curb or planters located within the sidewalk.~~ Subdivisions requiring approval by the Planning and Zoning Commission and Town Council ~~may~~ shall be required to provide for sidewalks along with required street tree requirements. (Sec. 12-130 of Article III Subdivision Regulations)
 - e. ***Type E: For every fifty (50) linear feet of frontage, or fraction thereof, the street yard shall contain: one (1) understory tree with sidewalks or planters built within the sidewalk. Street yards located within the CBD shall include sidewalks with planting areas either adjacent to the curb or planters located within the sidewalk. In the Central Business District, Sidewalks and Tree Plantings will be required for all new construction.***
- 3) If there exists regulated vegetation in the proposed buffer yard area, the director may grant credit toward meeting buffer yard requirements for preservation of the vegetation provided their caliper is equal to or exceeds the specifications herein described.
- 4) All buffer yards shall be landscaped with a combination of live vegetation, ground cover, grass, trees, and/or shrubs. Vegetation to be planted pursuant to this section shall be indigenous to the town area and be approved by the director. After the landscaping has been planted, the owner or his assigns shall maintain the buffer yard to ensure that the planted material lives. Any vegetation that dies shall be replaced with vegetation equal to or exceeding the vegetation previously approved and planted.

5) Minimum buffer yard/street yard widths:

<i>Buffer Types</i>	<i>Uses</i>	Buffer/Street yard Size (feet)
Type A	Business/Office Use/Parking Areas 10,000 sq ft or less (Public or Private)	5
Type A	Multi-family, Planned Unit Development, (3-5 unit)	5
Type B	Multi-family, Planned Unit Development, (6 + units)	10
Type B	Intensive Commercial, Multi-Use Facilities/Parking Areas Greater than 10,000 sq ft (Public or Private)	10
Type B	Institutional (Government Buildings, Schools, Churches)	10
Type C	Industrial	15
Type D	Subdivisions (see section 12-134)	❖ 6
Type D E	Central Business District (CBD) [New Construction Only]	❖ 0

- ❖ ~~For proposed subdivisions, sidewalks may be required in addition to the Streetscape, by the Planning and Zoning Commission and Town Council.~~
- ❖ ~~In the Central Business District, Sidewalks and Tree Plantings will be required for all new construction.~~
- ❖ ~~At the discretion of the Director of Operations, town right of way may be used for the installation of sidewalks. For projects that abut NCDOT right of way, permission must be granted by NCDOT.~~

8.7. Tree Preservation

Existing trees of native species shall be preserved on all ~~commercial or planned development~~ lots to the extent practical. Existing trees and other vegetation can be used to meet buffer/landscaping requirements in this ordinance.

Clearing, grading and other earth disturbing activities shall not occur on a ~~commercial or planned development~~ **any** site until a tree/landscaping plan has been submitted and approved for the site. The preservation or site plan for such developments shall identify types and locations of existing trees on the site with a caliper of four inches or more and a height of ten feet or more.

When existing trees with a caliper of four inches or more or a height of ten feet or more, on a ~~commercial or planned development~~ site are destroyed prior to approval of a preservation or site plan, each such tree that could have been integrated into the development and preserved, shall be replaced with a tree of a caliper of four inches in addition to the penalties identified in Article 9 of this ordinance. The penalties in Article 9 shall commence upon service of notification to the owner.

Preservation for Residential Lots

Each single-family or two-family residential lot shall contain a minimum of one (1) tree for each two thousand (2,000) square feet of lot area or fraction thereof. Any portion of the residential lot occupied by a recorded utility easement shall not be included as part of the total lot area. Preservation of existing trees that meet the above requirements is encouraged, and may be credited toward this requirement.

8.8. Tree/Landscape Plan

A tree/landscaping plan shall be required ~~in all residential subdivisions and on all, Commercial, Industrial, Multi-family (3 or more units), and Multi-Use facilities~~ ***for all clearing, grading, or other earth disturbing activity*** proposals. The plan must contain the following information (the required tree/landscape plan can be incorporated into the general site plan):

Landscape Plan Submittal Requirements

The landscape plan shall contain the following information:

- 1) General location, type, and quantity of existing plant materials
- 2) Existing plant materials and areas to be left in natural state
- 3) Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required
- 4) Locations, size and labels for all proposed plants
- 5) Plant lists with common name, quantity, and spacing and size of all proposed landscape material at the time of planting
- 6) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courtyards or paved areas
- 7) Planting and installation details as necessary to ensure conformance with all required standards
- 8) Location and type of irrigation system, if applicable
- 9) Location of any proposed buildings
- 10) Layout of parking and traffic patterns
- 11) Location of overhead and underground utilities
- 12) Location of signage
- 13) Connections to existing streets

- 14) Zoning designation of adjacent properties
 - 15) Landscape plan shall be drawn to scale and include a North arrow and necessary interpretive legends.
- ❖ A Landscaping/Buffer yard Information Guide and Plant Selection List is available from the Zoning Administrator

8.9. Design Specification Standards Parking Facilities Landscaping

Section 1: Parking Facilities Landscaping

- 1) All parking facilities required by town regulations shall submit the site plan to the director for review and approval of the landscaping requirements of this section.
- 2) Minimum standards. At least eight (8) percent of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square, rectangle or triangle.
 - a. All plantings shall be evenly distributed throughout the parking facility.
 - b. All interior plantings shall be curbed or otherwise physically protected.

Section 2: Sidewalk and Curb & Gutter

- 1) **All new development and redevelopment that exceeds 50% or more of the current tax or appraised value shall include curb, gutter, and sidewalks. Single-family dwellings are excluded from this requirement.**
 - a. **Curb and Gutter: The town shall require the property owner or owners to install curb and gutter at the existing road edge, or installation within the width of the existing road. The developer will be required to add any necessary asphalt to maintain the uniform appearance of the exiting road way.**
 - b. **Sidewalks: Sidewalks shall be installed within the right-of-way behind the curb and gutter. Sidewalks shall have a minimum width of:**
 - i) **Four (4) feet for residential areas including new subdivisions;**
 - ii) **Five (5) feet along and within the Central Business District, or state roads maintained by the NCDOT. If the installed sidewalk cannot fit on the existing right-of-way the property owner/owners will be required to provide the town with an easement to maintain sidewalks.**
- 2) **Curb, gutter and sidewalks shall be installed for the entire length of the property.**
- 3) **All specifications for curb, gutter, and sidewalks are available upon request from the Town of Carolina Beach Planning and/or Operations Department.**

Section 3: Dumpster Enclosures

- 1) **Refuse collection agency to be used must be included on final site plans. The refuse collection site must be enclosed on all four sides and remain closed and secured during inactivity.**
- 2) **Any dumpster existing prior to the adoption of this ordinance which is in violation of 8.9 Section 3 (1) may continue to exist for a period of 180 days from the adoption of this ordinance. Thereafter, all dumpsters shall conform with this ordinance.**

8.10. Maintenance

- 1) All planted and retained living material, required to meet the provisions of this chapter, shall be maintained by the owner of the property on which the material is located. The owner shall replace any planted material, which becomes damaged or diseased or dies, within sixty (60) days of the occurrence of such condition. If, in the opinion of the director, there are seasonal conditions, which will not permit the timely replanting, this requirement may be administratively waived until a time certain.
- 2) Nonliving screening buffers shall be maintained, cleaned and repaired by the owner of the property on which the buffer is located. Such buffers shall be kept free of litter and advertising.
- 3) All provisions of this article shall be subject to enforcement proceedings as cited in the Town Code of Ordinances. (Ord. No. 92-297, § L, 8-11-92)

8.11. Variance Procedures

Landscaping requirements may be waived at the discretion of the Planning and Zoning Commission and/or Town Council on projects requiring a Conditional Use Permit. The applicant must provide along with the Conditional Use Permit application written explanation for deviation from the requirements of the ordinance. In projects requiring staff approval, landscape requirements may be appealed to the Board of Adjustment (See Section 21.3).

In regard to the **Buffer yard/Street yard table**, Chairman Johnson asked if the verbiage regarding interior sidewalk requirements was removed and Planner Parvin said that it was taken out because the language was changed and moved under **Type D** which covered that.

In regard to **8.7. Tree Preservation**, Commissioner Wilcox inquired why we are telling people how many trees they have to keep on their property. Commissioner Wilcox said that he has some problems with this, that some of this is not what was discussed previously. Commissioner Wilcox said in regard to **8.6. Buffer Yard Landscaping, item 1**, this applies to new construction or expansion that is proposed in any amount equal to fifty percent or more of the current tax or appraised value. Commissioner Wilcox said that pretty much encompasses everything and he was told that this was to be applied to multi-family and sub-divisions and not it is being applied to single family homes. Director Chase said that the intention of having that section in here is to eliminate clear-cutting one's property. Some existing lots have vegetation that should be preserved and the intention of this section of the ordinance is to eliminate that from happening and encouraging some design and forethought to keeping some trees on the property instead of just going in and clear cutting your property. Commissioner Wilcox said he can agree with that when applied to sub-divisions, but he doesn't think anyone should tell you what to do with your own property.

Commissioner Newkirk referred to 8.7, first paragraph where it says **Existing trees and other vegetation** and said that it seems to contradict itself because the new wording becomes specific with its wording of trees. Commissioner Wilcox asked if this includes the buffer yard of residential homes and Planner Parvin said it does not. Commissioner Wilcox referred to 8.6 Buffer Yard Landscaping and said it states new construction and that would include residential. Planner Parvin referred Commissioner Wilcox to the Buffer Types table and said that excludes single family/duplex. Commissioner Wilcox said he feels it should be made clearer. Chairman Johnson suggested that we add to 8.6.1 where it says**current tax or appraised value**, the words **excluding single family homes**. Director Chase said that would solve it. Commissioner Newkirk suggested that we add the words **and/or other vegetation that meet the above requirement** to the last sentence in the last paragraph of 8.7 Tree Preservation where it says **Preservation of existing trees**...Director Chase agreed. Commissioner Wilcox referred to 8.9 Design Specification Standard, Section 2, #1 which states: **All new development and redevelopment that exceeds 50% or more of the current tax or appraised value shall include curb, gutter, and sidewalks. Single-family dwellings are excluded from this requirement.** Commissioner Wilcox said this doesn't sound right since a developer could build a group of single family dwellings and this should be worded differently. Planner Parvin said this can be omitted. Director Chase said we need to have a discussion on this section and asked if we want to exclude duplex developments from this as well and Commissioner Wilcox said he was under the impression that everything but triplex and multi family would be excluded. At this time, Commissioner Lancaster requested that the words Buffer Yard and Street Yard be two separate words throughout the document. Commissioner Lancaster said that in regard to curb and gutter and based on the article in the paper today, it seems the Town would propose for all developments to have curb, gutter and sidewalk on their lot regardless of whether or not there is other curb and gutter there or not. Commissioner Lancaster asked if he understood this correctly and Director Chase said yes and that it is time now to get this into the ordinance. Commissioner Lancaster said that's fine as long as everyone understands that there will be some undesirable situations that will arise from putting in curb and gutter piecemeal. Commissioner Wilcox said that this was just discussed in a joint meeting with Town Council and everyone agreed not to put it in piecemeal, so unless they are looking at single family dwellings or single family lot differently than they are looking at a subdivision. Commissioner Lancaster said he doesn't know. Commissioner Wilcox said that his problem is that not all subdivisions lend themselves to sidewalks and this, in a way, goes against the Land Use Plan by providing more impervious surfaces and that it is his experience that both small and large lots don't lend themselves to sidewalks. Planner Parvin referred to the last page of this proposal and said that there is a provision there that states sidewalks may be limited to one side of the subdivision. Commissioner Lancaster said he has a problem with this, that he would like to see this standard being either one side or both sides. Commissioner Lancaster said if this is going to be a Standard, then it shouldn't be left to the discretion of the Planning and Zoning Commissioner whether or not that standard gets applied. Commissioner Wilcox suggested that the wording throughout this ordinance should be **all multi-family and planned unit developments** instead of saying **all developments** and then putting in an exclusion.

At this time, Director Chase asked the Commission for a recommendation which he said could be looked further into and this addressed at the next Planning and Zoning meeting. Commissioner Newkirk referred to a change in section 8.8 where it refers to **earth disturbing activity**. Commissioner Newkirk said that should be changed to the word **development**. Commissioner Lancaster suggested removing the words **clearing and grading** also.

Commissioner Lancaster then referred to the Specifications for Sidewalk and Curb & Gutter which was submitted by Operations, Section 2, Sidewalk and Curb & Gutter and questioned the sizes. Further, Commissioner Lancaster referenced the section about cast iron pipes for carrying water under the sidewalks and said he can't imagine using cast iron pipes for anything. Chairman Johnson

said that on page one, 5.b.i. it states sidewalks to be 4 inches thick except where it is crossed by a driveway and then it shall be a minimum of 6 inches. Chairman Johnson said the driveway thickness should be a minimum of 8 inches. Commissioner Wilcox said that the driveway isn't 6 inches deep so what's the difference. Chairman Johnson said to preserve the integrity of the public sidewalk; it's something that should be looked at. Planner Parvin referred the members to Section 3, Dumpster Enclosures, #1 & #2. Commissioner Newkirk asked if notification will be sent to the parties needing to change this and Director Chase said yes. Regarding the language for not allowing trees to be removed, Commissioner Wilcox said that there is a reason for this when applied to multi-family or planned unit developments and that would be to avoid a whole track of trees being wiped out. However, he does not feel this applies to single family lots as there would be a remote chance of every lot owner removing their trees. Commissioner Lancaster suggested the wording for Preservation for Residential Lots read as follows: ***The Town encourages owners of single family or two family residential lots to observe the objectives of this ordinance. Any portion of any lot occupied by a recorded utility easement shall not be included as part of the total lot area. Preservation of existing trees and other vegetation that meet the above requirements is encouraged.***

Motion made by Commissioner Lancaster to open for Public Hearing; seconded by Commissioner Keith; all ayes.

Speaking for: None

Speaking against: None.

Motion made by Commissioner Lancaster to close Public Hearing; seconded by Commission Keith; all ayes.

Motion made by Commissioner Lancaster to adopt the draft ordinance Landscaping and Development Specification Standards as modified by this discussion and forward to Council with our recommendations for approval; seconded by Commissioner Wilcox, all ayes. At this time Commissioner Wilcox said that he would like to add that he feels it is a mistake to make it a blanket requirement to have sidewalks in every subdivision. Commissioner Lancaster said he agrees with Commissioner Wilcox that we are not prepared to make choices based on the material that is presented in these hearings and that we ought to have standards that say to just do it a certain way all the time.

ITEM #8 Zoning Amendment – Amend Article 11 Sign and Handbill Regulations. Code Enforcement Officer Hoffer advised that this has been previously discussed informally and this would be ready now for public comment. Code Enforcement Officer Hoffer stated that the three main changes are: allowing A-Frame signs in the boardwalk area only, the proposal to reduce the maximum height for freestanding signs in HB or I-1 to 25', and increasing the real estate sign height to 5'. Commissioner Newkirk asked if the A-Frame has a maximum height and Commissioner Lancaster said that information is on page 47, item 2. Code Enforcement Officer Hoffer said that he used the City of Wilmington's language although he altered it to reflect our local considerations and the previous comments by the Commission. Chairman Johnson referred to page 46, item (m) and asked if we shouldn't remove the words ***on private property or town sidewalks***. Commissioner Wilcox said he thought that previous discussions allowed A-Frame signs in all segments of the business district if they have the sidewalk capacity. Commissioner Lancaster said he doesn't see a definition for Banner signs on page 36 and that needs to be inserted. Commissioner Lancaster referred to page 38 under ***Portable Signs*** and said the word ***a*** should be inserted after the word ***on***. Commissioner Lancaster said that the ***s*** in ***Public Information Signs*** should be removed and that the ***s*** in the word ***gives*** and ***displays*** should also be

removed. Commissioner Lancaster referred to page 39, **Strobe Light Sign** and said this should start out reading **A sign that includes....** Commissioner Lancaster said that for **Temporary Sign** a period should be inserted after the word **time** and the word **frame** should be eliminated. Further, Commissioner Lancaster said that in Table 11-1 under **Freestanding Sign** it doesn't show the max. allowable sq. ft./height and under **Parking Signs**, Commissioner Lancaster said he thought it wasn't going to be allowed to be five feet. Discussion was held as to the meaning of parking signs versus directional signs and Commissioner Lancaster suggested this be looked into. Commissioner Lancaster referred to the **Special Event Sign** and suggested this be allowed in the marina business district since marina stores will be coming eventually that will have sales, boat shows, etc. Code Enforcement Officer Hoffer agreed and Commissioner Lancaster said Window/Door Signs should also be allowed in the marina business area. Commissioner Lancaster referred to page 43 (m) and it was agreed to omit this altogether which would mean that Table 11.1 will have to be adjusted accordingly. Director Chase referred to letter (i) and said this would eliminate A-Frame signs and Commissioner Lancaster suggested a parenthesis be added saying (**excluding A-Frames**). Code Enforcement Officer Hoffer referred to **11.7 Additional Regulations/Provisions, item (e)** and inquired how this should read. Commissioner Lancaster suggested that number (**1**) be omitted. Code Enforcement Officer Hoffer referred to **11.5, Prohibited Signs/Displays, letter (i)** and said that would go against what has been discussed regarding bench signs and A-Frames. Commissioner Wilcox suggested rewording to say; **Signs located within or protruding in public areas or rights-of-way unless specifically permitted herein.**

Commissioner Lancaster referred to page 44, **11.7, Additional Regulations/Provisions** and made the following changes:

- (b) **Flags, (2)**, following the word **member**, the word **of** should be added.
- (b) **Flags (5)**, the word **code** should be plural.
- (c) **Off-Site Real Estate Signs (1)**, where it says **Located on the private property....**, the word **the** should be eliminated.
- (c) **Off-Site Real Estate Signs (10)** which stipulates the allowable times of placement, presumes that open houses are only held on the weekend which is not true. Discussion was held and it was decided to have it read; **Allowable times of placement are during the hours of open house.**

At this time, Code Enforcement Officer Hoffer suggested the Commission to review **11.7, Additional Regulations/Provisions, (b), (6)**. Commissioner Wilcox said he would like to discuss the topic of windsocks. Commissioner Wilcox said that he feels it's each beach property owner's right to fly a windsock whenever they want to and that our ordinance does not allow this. Code Enforcement Officer Hoffer said we could just remove the word **not** from number (**7**) and in regard to Table 11-1 under **Sign Type**, where it says **Balloons/Windsocks/Displays**, we would remove the word **Windsocks**. Further, Code Enforcement Officer Hoffer said we would then define Windsocks as a flag.

Commissioner Newkirk addressed Code Enforcement Officer Hoffer's previous request to discuss number (**6**) under **Flags**. Code Enforcement Officer Hoffer said he finds this to be vague and feels it isn't clear regarding the word **etc**. Commissioner Wilcox said he would like to hear what the public has to say about this. Commissioner Lancaster said he had a few more changes and referred to (**h**), **Special Event Signs, (2)** and said the word **timeframe** should just be **time**. Commissioner Lancaster then referred to (**m**), **A-Frame Signs, item 4** and said that in line two the word **besides** should be **beside**.

Motion made by Commissioner Keith to open for Public Hearing; seconded by Commissioner Wilcox; all ayes.

Speaking for:

Fred Crouch, 1 N. Lake Park Blvd. Mr. Crouch said that he operates the Cottage Restaurant which has open flags. Mr. Crouch said he has been using open flags for the last ten years and would like to be able to continue to do so. Mr. Crouch advised that the building dates back to 1916 and at that time they didn't have neon signs. If forced to use neon, they will, although it would not be in keeping with the age of the structure. Additionally, Mr. Crouch advised that the standard size of the flag is 3' x 5' that he hasn't been able to find any flags which are 3' x 3' and he would like to be allowed to keep the flags they have been using.

Speaking against: None.

Motion made by Commissioner Wilcox to close Public Hearing; seconded by Commissioner Lancaster; all ayes.

Discussion by the Board. Chairman Johnson said that in regards to open neon signs or open flags, he would suggest that the same verbiage that is used in *(m) A-Frame Signs, item 6* be used in *11.7 Additional Regulations/Provisions*. Code Enforcement Officer Hoffer said that he could formulate the wording and create an item *(p) Open Signs* for this. Commissioner Lancaster suggested the following wording: *Questions regarding placement, material, and size shall be determined by the Planning Director or his designee and may be appealed as provided in Article (whichever applies).*

Commissioner Wilcox asked if this was going to be resolved tonight and Director Chase said the A-Frame portion may be able to be moved along, but the other areas of discussion might require Planning to come back for review. Commissioner Lancaster said he doesn't feel there has been too many changes and Commissioner Wilcox feels it should be voted on tonight. Commissioner Newkirk advised that the Table will have to be amended as well. Commissioner Lancaster said they will be permitted in the CBD, NB, HB, MB, MX and T-1. Code Enforcement Officer Hoffer said that there was a concern regarding A-Frame signs on public property and potential liability. Commissioner Lancaster said that can be taken care of by placing an acceptance liability clause or addition to the required permit. Commissioner Wilcox suggested that Code Enforcement Officer Hoffer check how Wilmington handles this. Chairman Johnson said that Planning can email the changes to the Commission and they can send back any changes to Planning prior to the Council meeting.

Motion made by Commissioner Wilcox to accept Sign Ordinance as submitted by Staff with the changes discussed by Planning & Zoning and documented; seconded by Commissioner Lancaster; all ayes.

ITEM #6 Zoning Amendment to amend Permissible Use Table 3.9.1 to remove Performance Residential (Article 15) from R-1 and R-2 zoning districts and subsequent sections of the Zoning Ordinance and to allow accessory structures in the HB Zoning District; amend Article 16 Planned Unit Development and subsequent sections of the Zoning Ordinance.

Director Chase advised that in regard to the Accessory Structures in the HB District, it would be to allow Accessory Structures in the HB District which is noted in the Permissible Use Table as "P" in the HB District. Director Chase referred the members to page 20 under 3.9.2 Dimensional Standards for Accessory Structures, and advised that another footnote has been added which states that Accessory Structures shall not exceed one story in height, shall not be permitted within any required front or side yard or within five feet of any lot line, must match primary structure in design and shall not exceed the

size of the primary structure and not exceed total allowable lot coverage allowed for the primary structure and accessory structure combined. Commercial sites that exceed more than two (2) structures for the site shall require a Conditional Use Permit.

Commissioner Wilcox asked if there is greater than 25% actual developed area, does this mean the developed lot area or the primary structure and Director Chase said that 25% of the 40% (maximum allowable lot coverage of structures) can only be dedicated to an accessory structure and this is of the lot. Commissioner Newkirk inquired as to the requirement of matching the accessory structure to the primary structure and felt this would be somewhat difficult. Commissioner Wilcox suggested the wording be changed to *similar in appearance*. Chairman Johnson said he would like to know who will determine what one story in height means. Discussion was held and it was decided to make the height at 15ft.

Director Chase addressed the Commission regarding Planned Unit Developments and said that Performance Residential Developments are allowed by Conditional Use Permit in all R1 and R2 zoned properties and the motion made from the Planning & Zoning Commission was to eliminate the possibility of multi-family structures that could take place with the Conditional Use Permit in single family duplex neighborhoods. Commissioner Lancaster said that the discussions that occurred over the last 3 – 5 meetings had to do with activities that were generated as part of the original Land Use Plan that looked at decreasing the density or the possibility of increased density in all of the residential areas which seems to be consistent with what the residents were after. Regardless of what the ordinance said, it seemed that every vacant lot or adjacent vacant lot became a target for increasingly dense development. The way to preclude that was to eliminate from the traditional residential districts the opportunity to exceed the density that existed in the area. If you got rid of Performance Residential Development which back in 2000 was discussed as an opportunity to cluster units to provide more open space and to decrease the infrastructure requirements encountered by the Town, but that's not the way that turned out. Director Chase said that's more on the lines of the Planned Unit Development process too, but that Performance Residential Development along with Planned Unit Development does give you the flexibility to allow multi-family structures and then there is potential for overall increase in density which amendments to our Land Use Plan currently and the Land Use Plan update does encourage us to look at eliminating these type of scenarios from our Zoning Ordinance. Commissioner Wilcox said if in eliminating Performance Residential leaving Planned Unit Development you had a situation of a group of lots and someone wanted to come in for a Planned Unit Development and they weren't exceeding the allowable density, are we still talking about being able to allow, for instance, a triplex within the Planned Unit Development? Director Chase referred to 16.2 of Article 16 and said that the first thing that changed was item (1) in which it now states that Multi-family structures (3 or more units) shall not be allowed in residential districts. Director Chase went on to say that back in 1996 and 1997 when the Land Use Plan was adopted, one of the goals for density was to lower it and that was taken care of. The current R-1 district we have today which use to be R5A allowed 29 units per acre at one time. In 2000 when an overall was done of the entire Zoning Ordinance, density was lowered from 29 to 17 units per acre and again in 2004 it was lowered to 15 units per acre. Director Chase further said that there may be some instance in which we could reduce some density, but he believes the biggest problems at one time was the allowance of multi-family structures in your traditional single family duplex neighborhoods. Director Chase said that the density issue is a strong argument at this point and the disallowance of multi-family structures within single family duplex neighborhoods would address this. Director Chase said that almost the entire North End that's located within the R-1 district has been developed as multi-family. Director Chase said that we could take some comments at this point on Performance Residential and then get into the Planned Unit Development Process. Commissioner Wilcox asked what happens in the event of a loss of an existing multi-family structure and Director Chase advised that if the loss is do to a natural disaster they could build it back. If the property owner decides to take down that structure of his own will, he would be subject to following the guidelines of reduced density. Commissioner Wilcox said that if you have multi-families that are condos and there are three (for instance) on a site and that property is gone, what happens to the other owners. Director Chase said that if someone came in and took that property down of their own will and

wants to build back, then the current guideline doesn't allow that to happen. If we decide tonight to not totally eliminate Performance Residential from the Ordinance and left a place in Town where it wouldn't propose potential problems for having multi-family structures within the single family duplex neighborhoods, then we were proposing, as another option, allowing that section of the Town to be renamed R-1 Conditional Use District. That section of Town would then be able to have multi-family type development under Conditional Use Permit. Commissioner Wilcox said his concern is if they exceed the 50% rule, then they have to build to the current code. Commissioner Wilcox said that things can happen to cause you to fall in that 50% rule and then the other owners are automatically without residence and this could become a legal issue. Commissioner Lancaster said that he is personally not in favor of continuing any Performance Residential Development in any residential area; however, if we created a multi-family overlay for a North End R-1 District which grandfathered existing multi-family residences and would permit their replacement by Conditional Use Permit, he would be okay with that. Commissioner Wilcox said that unless someone intentionally tears down the building, he feels the multi-family status needs to be protected. Director Chase said that in the Planned Unit Development process that exists currently, on **Page 5, (3), Density**, if you want to knock down the density, this is where it can be addressed. Director Chase recommended we eliminate the Performance Residential since the Planned Unit Development allows for the same issues to be addressed and added that we should focus on revising the Planned Unit Development. Chairman Johnson reiterated to the public that where the multi-family situation exists in the R-1 District at the North End on Carolina Ave. and Canal, whatever we end up with here, we are going to cover and protect those existing structures that are multi-family. Commissioner Newkirk asked in what way are we protecting them and Chairman Johnson said that in the event it was torn down or there was a fire, etc. they would have to meet current code, but they could build it back with the number of condos that were lost. Commissioner Lancaster added that they can't exceed the footprint of the existing. Director Chase said that parking, etc. would have to be met also. Commissioner Newkirk said there appeared to be too many ifs surrounding this and Commissioner Wilcox said it would have to be the same footprint, same parking, same number of units unless you tear it down intentionally.

At this time, it was decided to open for public hearing to address the removal of the Performance Residential.

Motion made by Commissioner Wilcox to open for Public Hearing; seconded by Commissioner Wilcox; all ayes.

Speaking for:

Leroy Franks, 908 Canal Dr. Mr. Franks said he is in favor of removing the Performance Residential in its entirety and that consideration should be given to what Commissioner Lancaster said about the overlay district and what was R-1 back when they were built.

Speaking against:

Dorothy Dale, 1209 Canal Dr. Ms. Dale said she is here as a resident in addition to representing her neighbors (Jay & Kathy Kosterman, 1303 Canal) for whom she is a real estate agent. Her neighbors have an oversized lot with an older beach cottage with a guest house. They are intending on tearing this down and constructing a nice structure with a lot of landscaping. Ms. Dale continued by saying that next door to the Kosterman's is property with nine units on it and that the Kosterman's have owned their property for some time and have paid their taxes. For them to get penalized to just put on a duplex is not in their best interest.

Cathy Kosterman, 1303 Canal. Dr. Kosterman said they own beach property and are planning to live here. Dr. Kosterman said they are next to a nine unit condo and believes this would make a very good transition for the triplex she would like to build which will be one building, not three separate ones and will have one door, three garages, elevator and steps. Dr. Kosterman said they have been paying taxes and have planned on doing this for several years and they didn't know this was going to be up for discussion. Dr. Kosterman said they are willing to meet all building specifications and she hopes this will be considered.

Bryant Bass, Business owner and resident of Carolina Beach. Mr. Bass said it seems that tonight's conversation was mostly about the North End even though there are other R-1 Districts which will be affected as well. He would like to know if the North End will be concentrated on or all R-1 Districts. Chairman Johnson said it applies to all R-1 Districts. Mr. Bass said this dooms everything to be a sea of duplexes with today's prices. Mr. Bass said he isn't quite sure what is being proposed here and Chairman Johnson said that the proposal is to remove Performance Residential from R-1 and R-2. Commissioner Lancaster said that the concept is being consolidated in the Planned Unit Development process and that there isn't a lot of difference other than basic standards you start with. Commissioner Lancaster further advised that there is very little difference between building two lots with two duplexes on it and taking two lots and building four single family connected residences on it. You will still get four units on two lots.

Stewart Pittman. Mr. Pittman referred to Commissioner Lancaster's comment about two duplexes on two lots or four units on two lots together. Mr. Pittman said that as a builder there is a huge difference between those two things. A duplex has very strict setbacks on all sides which limits you to 17 foot wide unit on most 50' x 100' lots, but four units on two lots can be made wider, staggered from front to back and given a little more separation which makes room for a lot more creativity. Mr. Pittman further stated that if you span this out to a six lot situation, you can do four triplexes (12 units) or six duplexes. The four triplexes allow you to build nicer units with a lot more creativity on placement. Commissioner Lancaster said that we would all probably be in favor of that but what it requires in 99% of instances is a little bit bigger piece of real estate to start with in order to be able to space it.

Jim Reese, 610 Atlanta. Mr. Reese said he is for anything that would reduce the chance of multi-family in the residential areas, especially those west of Lake Park. Mr. Reese asked if R-1 is where duplexes are allowed and Chairman Johnson said that's correct. Mr. Reese asked if Performance Residential is allowed in R-1b and Commissioner Lancaster said no. Mr. Reese asked if duplexes are allowed in R-2 and Chairman Johnson said no. Mr. Reese said he would be definitely for reducing the chance of multi-family.

Motion made by Commissioner Lancaster to close Public Hearing; seconded by Commissioner Wilcox; all ayes.

Discussion by the Board. Commissioner Wilcox said he has no problem eliminating Performance Residential. Commissioner Kopitopoulos concurred with Commissioner Wilcox. Commissioner Keith said he is in favor of doing away with the Performance Residential and let Planned Unit Development handle the problems. Commissioner Lancaster said he is not a big fan of the Performance Residential and he believes that Planned Unit Developments with some different face lines allowing different kind of products to be developed will work out just fine. Commissioner Newkirk concurred with the comments by the other Commissioners as did Chairman Johnson.

Motion made by Commissioner Wilcox to remove Performance Residential in its entirety from Zoning Ordinance; seconded by Commissioner Keith; all ayes.

Director Chase referred to the list of proposals to Article 16 of the Planned Unit Developments that need to be discussed.

16.2 Review criteria.

The following review criteria are established as general guidelines for the Planning and Zoning Commission and the Town Council in their deliberations and decision making regarding planned unit developments.

- (1) ~~Degree of departure of the proposed planned unit development from surrounding areas in terms of character, density, or type of use.~~ **Multi-family structures (3 or more units) shall not be allowed in residential districts.**

Director Chase said that the locations where Planned Unit Development is located by Conditional Use Permit are R-1, R-1b, R-2, they are not allowed in R-3, not allowed in Conservation, they are allowed in the MH, the MF, the MX, the HB, the MB and Tourism District. Chairman Johnson asked Director Chase if he is asking for this for only the R Districts and Director Chase said yes, including MH. Commissioner Wilcox said that in the past when the Use Table was being restructured, considerable discussion took place about doing away with certain classifications because they would always be allowed under Performance Residential or Planned Unit Development. Commissioner Wilcox said he is concerned about not allowing triplexes. Multi-family structures use to be five or more units and then it was changed to three or more which he was hesitant to vote for but other mechanisms were in place that would offer latitude. This proposal takes away that latitude. Director Chase read from *Page five, e. Townhouses* as follows: ***A single-family dwelling unit constructed in a series or group of attached units with property lines separating such units shall be reviewed through the Planned Unit Development process. A separate subdivision plat must be submitted in conjunction with the planned unit development application.*** Director Chase asked if this is limited to a two structure or three units. Commissioner Wilcox said this is a separate use. Director Chase suggested this could be grouped into one large structure that could be 15 or 16 units which, by building code, would be classified as a multi-family structure. Commissioner Wilcox said it may not serve the same purpose for creativity because you're talking about deeded property for each of the units. Commissioner Wilcox added that he agrees there aren't a lot of large parcels around, but there are some and he would be more comfortable if there was a mechanism in place that would allow the Commission to consider it. Director Chase suggested reviewing the other changes and then returning to the Multi-family issue.

16.4 General regulations.

- (3) ~~Fence and buffering regulations.~~ The fence ~~and buffering~~ regulations of Article **8 10** of this ordinance shall apply to the planned unit development according to the requirements for the zoning district in which each proposed development is located.

Director Chase advised that this is a minor change to reflect the recently approved section of the fence regulations.

16.5 Residential planned unit development regulations.

The following regulations shall apply to residential planned unit developments.

- (1) ~~Acreage requirements. No minimum acreage requirement.~~ **A minimum of #acre shall be required for planned unit developments. (TO BE DISCUSSED)**

(2) *Minimum setback requirements.* The minimum setback requirements for this conditional use shall be as follows:

- a. *Minimum setback from public or private street rights of way:* **Setbacks from public or private rights of way must meet the district regulations as written in Article 3.9.1. of the Town's Zoning Ordinance. A setback of Ten (10) feet, unless otherwise written in the Town's Zoning Ordinance shall be the minimum allowed for a planned unit development. A written request must be made and submitted along with application for a Conditional Use Permit for a departure from the standard district regulations (3.9.1) and must be recommended for approval or denial by the Planning and Zoning Commission and formally approved or denied by Town Council.** ~~Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.~~
- b. *Maximum Height.* **Building height CANNOT EXCEED minimum regulations set forth in 3.9. 7(b) of the Town's Zoning Ordinance.**
- c. *Minimum set back from property lines:* **Setbacks from property lines must meet the district regulations as written in Article 3.9.1 of the Town's Zoning Ordinance. Five (5) Ten (10) feet, unless otherwise written in the Town's Zoning Ordinance shall be the minimum allowed for a planned unit development. A written request must be made and submitted along with application for a Conditional Use Permit for a departure from the standard district regulations (3.9.1) and must be recommended for approval or denial by the Town's Fire Marshall and meet extra provisions as provided by the Fire Marshall and must be recommended for approval or denial by the Planning and Zoning Commission and formally approved or denied by Town Council.** ~~Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.~~
- d. *Minimum separation between on-site structures:* Fifteen (15) feet, **unless otherwise granted in part (c) above.** ~~Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.~~
- e. **Townhouse. A single-family dwelling unit constructed in a series or group of attached units with property lines separating such units shall be reviewed through the Planned Unit Development process. A separate subdivision plat must be submitted in conjunction with the planned unit development application.**

(Note: Building Codes and other state and federal regulations may mandate setbacks greater than those specified or recommended.)

- (3) *Density*. For those zoning districts in which residential planned unit development is a conditional use, the maximum allowable density for multi-family and single-family (cluster type) development shall **meet the density requirements as established in 3.9.1 of the Town's Zoning Ordinance.** ~~be one and one quarter (1¼) times the maximum allowable density for the district in which the development is located.~~ For the zoning districts which do not specify densities, the determination criterion for density purposes shall be forty (40%) percent of land coverage **and cannot exceed height regulations established in 3.9 7 (b).** ~~(Note: the density figures established in this section are intended to represent maximum density; the actual density to be allowed in a particular planned unit development shall be determined by the Town Council, after considering the recommendation of the Town Planning and Zoning Commission, based on the review criteria established in Subsection 16 (b) of this article.)~~

Director Chase said that Item #1 should be discussed later. Regarding Item #2(a), Director Chase that Planning and Zoning recommended a ten foot setback which Town Council approved. Commissioner Lancaster said we recommended 15 and the Town Council approved 10. Director Chase said the minimum is that you can't go below ten feet, but if you want to vary from those standards, this process is outlined. Director Chase said that Item #2(b) is taking this section from Item 2(a) and creating 2(b) to allow for its own category regarding height. Commissioner Lancaster said that in this item, the word *minimum* should read *maximum*. Director Chase said that Item 2(c) adds in the need for a written request along with the application for a Conditional Use Permit for a departure from the standard district regulations (3.9.1) and adds that this must be recommended for approval by the Fire Marshall. Director Chase continued with Item 2(d) which he explained simply adds in the words ***unless otherwise granted in part (c) above.*** Commissioner Newkirk asked if there was a situation where the Fire Marshall and/or the Planning and Zoning Commission said we will not allow "without these changes" and then the Town Council went ahead and approved it anyway, wouldn't the Town be liable? Commissioner Lancaster said yes, it would. Director Newkirk suggested the Town attorney review the language of this section. Director Chase said he will check on this. Director Chase advised that Item 2(e) is an addition. In regard to Item 3 Density shows some deletions and additions.

16.6 Business planned unit development regulations.

The following regulations shall apply to business planned unit developments:

- (3) *Minimum setback requirements:*

a. *Minimum setback from public or private street rights of way:* **Setbacks from public or private rights of way must meet the district regulations as written in Article 3.9.1. of the Town's Zoning Ordinance. A setback of Ten (10) feet, unless otherwise written in the Town's Zoning Ordinance shall be the minimum allowed for a planned unit development. A written request must be made and submitted along with application for a Conditional Use Permit for a departure from the standard district regulations (3.9.1) and must be recommended for approval or denial by the Planning and Zoning Commission and formally approved or denied by Town Council.** ~~Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.~~

- b. **Maximum Height. Building height CANNOT EXCEED minimum regulations set forth in 3.9. 7(b) of the Town's Zoning Ordinance.**
- c. **Minimum set back from property or lot line: Setbacks from property lines must meet the district regulations as written in Article 3.9.1 of the Town's Zoning Ordinance. Ten (10) feet, unless otherwise written in the Town's Zoning Ordinance shall be the minimum allowed for a planned unit development. A written request must be made and submitted along with application for a Conditional Use Permit for a departure from the standard district regulations (3.9.1) and must be recommended for approval or denial by the Town's Fire Marshall and meet extra provisions as provided by the Fire Marshall and must be recommended for approval or denial by the Planning and Zoning Commission and formally approved or denied by Town Council.** Fifteen (15) feet. Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.
- d. **Minimum separation between on-site structures: Fifteen (15) feet. Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.**

(Note: Building Codes and other applicable state and/or federal regulations may mandate setbacks greater than those specified or recommended.)

- (4) **Maximum site coverage. No maximum site coverage requirements. As established in 3.9.1 of the Town's Zoning Ordinance.**

Director Chase advised that regarding Item (3) a, the minimum setback of ten feet did not change. Regarding Item (3) b, Director Chase said this was removed from (3) a and added as (3) b. Chairman Johnson advised that the word "minimum" should be removed. Regarding Item (3) c and d, Director Chase read the changes. Director Chase referred to Item (4) *Maximum site coverage* and read the changes.

16.7 Industrial planned unit development regulations.

The following regulations and shall apply to industrial planned unit developments:

- (2) *Minimum setback requirements:*
- a. **Minimum set back from public or private street right-of-way: Setbacks from public or private rights of way must meet the district regulations as written in Article 3.9.1. of the Town's Zoning Ordinance. A setback of Twenty (20) feet, unless otherwise written in the Town's Zoning Ordinance shall be the minimum allowed for an industrial planned unit development. Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.**
- b. **Maximum Height. Building height CANNOT EXCEED minimum regulations set forth in 3.9. 7(b) of the Town's Zoning Ordinance.**

- c. *Minimum set back from property or lot lines: Minimum set back from property or lot line: **Setbacks from property lines must meet the district regulations as written in Article 3.9.1 of the Town's Zoning Ordinance. Fifteen (15) feet, unless otherwise written in the Town's Zoning Ordinance shall be the minimum allowed for a planned unit development.** Structures or buildings exceeding fifty (50) feet in height shall be set back an additional one (1) foot on all sides for every one (1) foot of height above fifty (50) feet. In addition, other applicable setbacks may be recommended by the Planning and Zoning Commission and approved by Town Council.*

(Note: Building Codes and other state and federal regulations may mandate setbacks greater than those specified or recommended.)

Director Chase read the changes to this section and said this is the same concept regarding height and setbacks. Chairman Johnson said that in Item (2) b, the word *minimum* needs to be removed. Commissioner Newkirk said that (2) c needs to be reviewed also by the attorney.

At this time Director Chase said that the big issue tonight is with the multi-family units and he would recommend first hearing from the public.

Motion made by Commissioner Wilcox to open for Public Hearing; seconded by Commissioner Kopitopoulos; all ayes.

Speaking for:

Bryant Bass. Mr. Bass said he would like to leave the triplex in the residential area to allow for some variety.

Leroy Franks, 908 Canal Dr. Mr. Franks said that he favors anything that will control the density.

Sally Kazinski, Georgia St. Ms. Kazinski said she is new to this and would like to verify some things. Her home is zoned R-1b and she believes this means she is zoned for single family dwellings only. Chairman Johnson said this is zoned as single family. Commissioner Keith said Planned Unit Developments can be built in that district also. Ms. Kazinski asked what this means and Commissioner Lancaster said that is the topic of discussion tonight and that there are a few unit structures currently in her district. Commissioner Lancaster explained that Planned Unit Development is allowed in any of the residential districts except R-3 and the proposal tonight is to define the circumstances under which Planned Unit Development would be permitted. Chairman Johnson added that one of the proposals tonight is to not allow multi-family structures of three or more units in R-1, R-1b, R-2 or MH. Commissioner Wilcox added unless they are Townhomes to which Commissioner Lancaster said that would have to be agreed on.

Stewart Pittman. Mr. Pittman said he feels Townhomes should be allowed and also feels the Town should allow, under Planned Unit Development, Triplexes even if they are not Townhomes.

Captain Dave Tilly, 1501 Canal Dr. Captain Tilly described his various efforts in helping Carolina Beach and said that he lives along the Canal Dr. corridor. Captain Tilly said that an inequity in property values will be created in the R-1b zoning along the Canal Dr. corridor due to the R-1 zoning should the R-1b zoning be changed. Captain Tilly said he is not asking for his property to be rezoned nor is he asking that his property be moved to R-1 (as it should be). Captain Tilly said he is asking that the zoning be left alone. Captain Tilly said should this committee remove the 1.25 multiplier for Planned Unit Developments, his property and the properties like his will lose over \$100,000. in market value.

Mac Moore, 104 George Ave. Mr. Moore said he is concerned that there are two, three story houses are right beside their one family homes and would like to know how long this will be allowed. He would like to see the neighborhood stay as a neighborhood.

Jim Reese, 610 Atlanta. Mr. Reese said he doesn't want to see a sea of duplexes especially in R-1b and R-2 and maybe they could just exclude those areas from the Planned Unit Development.

Maryann Moore, 102 Georgia Ave. Ms. Moore said that single family units and neighborhoods are not a bad thing. If the house beside her is zoned so they can sell it to make money, then there is no point in saying that you're R-1b.

Richard Burg, 211 George Ave. Mr. Burg said that money isn't the topic here tonight, it's consistency.

Dorothy Dale, 1209 Canal. Ms. Dale said that each case should be looked at and not have a closed book as to how it's going to be. The heart of Carolina Beach is with the property owners.

Abe Kazinski, 103 Georgia. Mr. Kazinski said that at the time he purchased his property, he understood the zoning. If the zoning does change, he would see huge projects going up creating a dark wall. He asks that this be considered and the Commission allow for some variety.

Motion made by Commissioner Lancaster to close Public Hearing; seconded by Commissioner Keith; all ayes.

At this time Chairman Johnson said there are two situations to be addressed. Basically, R-1, R-1b, R-2 and MH are single family. The only R-1 District we have with multi-family is the area discussed earlier located from the north side of T-1 to the North end. Director Chase said this could be handled by the Permitted Use Table or you could exclude multi-family type development from R-1b and R-2. Chairman Johnson asked if we could do this tonight and Director Chase said no, we would have to advertise because you would be creating a new zoning. The options tonight would be to maintain focus within the Planned Unit Development section and decide what can and cannot be allowed.

At this time Chairman Johnson read the basic policy statement regarding economic and community growth and development from the current Land Use Plan as follows:

The Town shall not approve any development or redevelopment that would degrade the character of the Town. In permanent single family residential neighborhoods, rather than allowing for more intensive development and its associated increases in stormwater runoff, parking demand and traffic congestion, the Town will act in support of continued emphasis of single family and duplex residence.

Chairman Johnson said that he is reading from the 1997 Land Use Plan and also the executive summary amendments that were passed by Council and sent to the CRC. Chairman Johnson said that for over two years or more we have been hammered, requested by citizens of the Town to reduce density in this Town if possible in the residential areas. For the last 1 ½ years we have been going through the current update of the Land Use Plan and have heard the same thing.

Discussion by the Board. Commissioner Newkirk said he doesn't know the best way to take this on and he does feel areas such as R-1b should keep their character. Maybe we should look at Planned Unit Developments with *numbers* of acres rather than trying to fit square pegs in round holes. Commissioner Lancaster said there are two sets of needs/wants. There are residents who have invested in particular areas of Town because they had some expectation that they were buying into a community that they were

comfortable with. Then there is a group of folks that have invested in property not necessarily to live on, but to develop, so their investment wouldn't be necessarily for lifestyle purposes but for investment in return. Commissioner Lancaster said that the examples Chairman Johnson read reflect the desires of people who have come to Carolina Beach to live and not necessarily just to invest. Commissioner Lancaster said he doesn't want to discriminate against either group, but investment is all about risk and for him personally, if you bought a lot that happens to be a lot and one half big and you thought you could build a complex on it and the zoning changed allowing only for a duplex to be built, maybe you won't make quite as much money, but you preserve what the zoning character was all about. Commissioner Lancaster said he is okay with not having multi-family structures in the residential district. Commissioner Keith said he is in favor of taking the Planned Unit Development out of R-1b and R-2 and keep out the 1.25 multiplier and reduce density any way possible. Commissioner Kopitopoulos said he agrees with Commissioner Lancaster. Commissioner Wilcox said the more this is talked about, the more confusing it gets. We started talking about trying to define some parameters within the Planned Unit Development. We already knew which zoning districts the Planned Unit Development applied to. Now we are talking about eliminating Planned Unit Development from different zoning districts which wasn't what was originally talked about. We started talking about leaving the Planned Unit Development in tact and making some modifications to the number of units to be built and addressing that part of it. Commissioner Wilcox said he, therefore, didn't come prepared to discuss an absolute removal of Planned Unit Development. Commissioner Wilcox said he has no problem with the suggestions tonight accept for doing away with the triplexes. Chairman Johnson said we are not addressing R-1 tonight, but we are trying to address R-1b, R-2 and possibly MH. He is in favor of removing Planned Unit Development because they are 95% single family homes and that is what we are trying to protect. Chairman Johnson said he just doesn't feel a triplex fits in. Chairman Johnson said that we could vote on removing the Planned Unit Development from these districts and Director Chase advised that we need to advertise for that first as it wasn't advertised for this meeting. Director Chase said that if the goal is to remove the Planned Unit Development from those districts, that could be put into the wording in Article 16.2 (1) and not need to be advertised.

Further discussion was held as to how to handle the multi-family structures in the different residential areas and motion made by Commissioner Lancaster to accept draft Article 16 Planned Unit Development with the following modifications; Paragraph 16.2.1, Multi-family structures (three or more units) shall not be allowed in Residential Districts R-1B, R-2 and MH; Paragraph 16.5, on acreage requirements, a minimum of 30,000 square feet of acreage or lots shall be required for planned unit developments; 16.5.2b, eliminate "minimum" from the building height paragraph; 16.5.3b, eliminate the density requirements be one and one quarter times the maximum allowable density and retain that one to one; paragraph 16.6.3b, eliminate "minimum" from the building height paragraph; 16.6.3c be referred to the attorney for review; 16.7.2b eliminate "minimum: from the maximum height requirement; seconded by Commissioner Wilcox; all ayes.

ITEM #9 Non-Agenda Items. Director Chase advised that the HVAC electrical or mechanical code requires a minimum of 42 inches and said that we may want to consider changing the ordinance. Commissioner Wilcox said that this is not a code requirement but rather a policy by Progress Energy. Discussion was held and Director Chase said this can be brought up at the next meeting.

Chairman Johnson asked Director Chase if he was going to place on the agenda a proposal for addressing Planned Unit Development in R-1 and Director Chase said yes.

ITEM #10 Adjournment. Motion made by Commissioner Lancaster to adjourn; seconded by Commissioner Keith; all ayes. Meeting adjourned at 12:00 a.m.

Respectfully Submitted,

Renee M. Fitzpatrick, Secretary
Planning & Zoning Commission