

Dennis Barbour
Mayor

Jack Lynch
Councilman

Joel Macon
Councilman



Pat Efird
Mayor Pro Tem

Gary Doetsch
Councilman

Calvin R. Peck, Jr.
Town Manager

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

PLANNING & ZONING COMMISSION MINUTES

June 9, 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, Sarah Harris, John Keith, Mike Newkirk, and Dan Wilcox. Those absent were: Mike Kopitopoulos. 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 May 12, 2005. Chairman Johnson advised that the May 12, 2005 minutes will be tabled to the July, 2005 meeting for approval.

ITEM #3 Zoning Amendment – Amend Article 11 Sign and Handbill Regulations.

Code Enforcement Officer Hoffer said that we had a lengthy discussion at the last meeting, therefore, he asked the Commission to simply advise if they had any comments. Chairman Johnson referred to page 39 where the definition of Windsock appears and said the word “*attached* to a standard” would not apply to all cases. Discussion was held and it was decided to rewrite the definition to read: “*An attached tapered, open-ended sleeve that indicates the direction of the wind blowing through it.*” Chairman Johnson referred to Table 11-1, in reference to A-Frame Signs under Special Provisions, and said regarding *Attached Open Signs*, he would say that a minimum of 98% of the businesses within this Town have an inside neon lighted open sign which are either hanging by a chain or physically attached, etc., but we don’t address that inside neon sign. Chairman Johnson said the way he reads the Table is that they could have an attached open sign on the outside, a flag on the outside and an inside neon open sign and asked if he is reading this correctly. Director Chase said that sounds correct and Chairman Johnson said he didn’t think this is what we wanted. Discussion was held and it was agreed that businesses be allowed to have an inside neon open sign that shall not exceed 18”x 30” and an exterior open flag sign and that is it. Commissioner Lancaster said we should then say something under Open Signs to that effect and Code Enforcement Officer Hoffer said that if the Commission agrees, staff can word this, but he would like an approval, if possible, tonight.

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

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

Motion made by Commissioner Lancaster to forward the Sign Ordinance proposal as amended to the Council with recommendation for approval; seconded by Commissioner Keith; all ayes.

ITEM #4 Zoning Amendment – Amend Article 8 Landscaping and Buffering.

Long Range Planner Parvin advised that Council requested that P&Z revisit the Landscape Ordinance for clarification on 8.6, the section where it says “*excluding single family homes.*” Commissioner Wilcox said that when this was discussed last time, he mentioned clarifying that language to include duplexes and we were told that in the ordinance itself, it already contained that duplexes and single family were considered the same thing and Director Chase said that we want to make this very clear. Commissioner Lancaster said that Section 8.6 could be amended to say, “*excluding single family homes or two family homes*” or you could use the language that he used inside, “*excluding single family/duplex homes*” but you need to pick one or the other and not have two types of text describe the same thing.

Planner Parvin advised that the second item Council wanted the Commission to review was 8.7, Tree Preservation for residential lots and said that the first shaded area is what was presented to Town Council and the second was what was originally approved by Planning & Zoning as shown below:

- **8.7. Tree Preservation**

Modified language presented to Town Council:

Preservation for Residential Lots
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/or other vegetation that meet the above requirements are encouraged.**

Language originally presented to Planning and Zoning:

- ***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 and/or other vegetation that meet the above requirements are encouraged, and may be credited toward this requirement.

*****Town Council would like to see tree preservation requirements for residential lots***

Commissioner Wilcox asked if they reviewed this at the workshop to review because he didn't know it went on to Council and Director Chase said it went before public hearing at our regular Town Council meeting and the Town Council wanted the Planning & Zoning Commission to look back over this as there was some reluctance to not have something a little more substantial and wanted some requirements for lot clearing. Commissioner Wilcox said that his problem is that you would be imposing an ordinance on very few people and most lots don't have trees and most importantly he doesn't see a justification since he doesn't see a problem with it.

Commissioner Lancaster said he is in favor of vegetation, but he has to agree with Commissioner Wilcox that this doesn't discriminate about single or duplex lots and if you look anywhere in an R-1 area of 5,000 sq. foot lots, you don't really have anyplace to put a tree unless it's in the side yard setback. Planner Parvin added that on a 5,000 sq. ft. lot, this would require two trees to be preserved or planted. Commissioner Wilcox said at this rate, the next ordinance would be to tell people who had no trees that they have to plant trees. Commissioner Wilcox further said that if it was up to him he would encourage planting and maintaining trees where possible but to encourage it, not to require it. This is what he would send back to Council with an explanation about the things discussed. Chairman Johnson asked if the Commissioners want to send back the language Planning originally had and Commissioner Lancaster said he doesn't have a problem with either one of them. He understands what Commissioner Wilcox is saying, but on the other hand if Council wants trees, that's great. Director Chase advised that this could be forwarded to Council with tonight's comments added.

These being the only two changes to be addressed, Chairman Johnson asked for a motion to open for public hearing.

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

Speakers:

Jeannie Mintz, 605 George Ave. Ms. Mintz said she has owned a landscaping company for over 18 years and the bottom line is that a requirement will have to be placed stating that when you replace these trees they must be of a certain caliper because if you don't, the homeowners will put in a 3 gallon tree. Ms. Mintz asked what is being proposed for all the wildlife that are on the Island to eat. Ms. Mintz said this problem isn't just about homeowners and builders since wildlife controls mosquitos, roaches, etc.

George Connett, 1321 Cabo Court. Mr. Connett said that you have to have specifics of what you're going to do and he is also concerned because this is referring to only residential and what about commercial. Commissioner Wilcox said it's already required for everything except single family and duplex. Mr. Connett also agrees with the previous speaker that there should be a size requirement.

Birdie Clark, Florida Ave. Ms. Clark says we should look at what the intent of more trees is and she agrees with Ms. Mintz regarding providing trees for the wildlife to control bugs.

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

Chairman Johnson suggested having staff go back to reword this and to include sizes. Director Chase said that sizes are already in there and Chairman Johnson asked if we need to address looking at the different sized lots we have in order to come up with a reasonable number and Director Chase said that if the Commissioner makes a motion to do that, staff will be glad to.

Discussion was held and Director Chase said that since we started handling the clearing and grading permits, we have seen improvement. Commissioner Lancaster said he recommends that after *ordinance* and before the period, we add *by retaining and planting a minimum of one tree for each 2,000 square feet of lot area of fraction thereof*. Then proceed as written. Commissioner Lancaster also suggested the first line be changed to say, *owners of single family or duplex* be added so we are consistent. Chairman Johnson asked which language we are using and Commissioner Lancaster said we are using the first paragraph with an addition. Commissioner Newkirk suggested adding that the *Town encourages and may provide incentives to owners of single family or duplex residential lots to observe the objectives of this ordinance by retaining or planting a minimum of one tree for each 2,000 of square feet of lot area or fraction thereof*.

Commissioner Lancaster referred to paragraph 8.9, section 2, Sidewalk and Curb & Gutter, item 1, last sentence that says, *Single-family dwellings are excluded from this requirement*. Commissioner Lancaster suggested changing this to add *and duplex dwellings*. Chairman Johnson said that at the last Town Council meeting, some Council members had problems with requiring this Sidewalk and Curb & Gutter in areas where it just isn't practical and asked if they ever came to a decision. Director Chase said it was passed as having to provide Sidewalks and Curb & Gutter in all development.

Motion made by Commissioner Lancaster to recommend we forward the revised Landscape Ordinance with the amendments discussed tonight with the recommendation for approval; seconded by Commissioner Keith; all ayes.

ITEM #5 Zoning Amendment – Proposed amendments from Planning Staff to amend Article 3, Zoning District Regulations, Section 3.9 Dimensional Standards for the Various Zoning Districts, (b) (6) Allowable intrusions into required yard setbacks for residential zones.

Zoning Administrator Hardison advised that we have been having some issues when Certificate of Occupancies are requested and he would like to get the thoughts of the Commission on this. Zoning Administrator Hardison said that two issues that have come up is the meter platform and the HVAC platform. Zoning Administrator Hardison read the May 3, 2005 memo as follows:

Currently our zoning ordinance does not allow for electrical mechanical platforms to be located in the setback. In the flood zone the electrical panel has to be elevated at base flood elevation. The electrical code requires the panel to be at eye level thus requires in some situations for there to be a platform with steps leading up to it for maintenance and reading of the meter. Per electrical code you have to have 36'' clearance from the front of the panel to the handrail. The panel is usually between 6'' to 8'' in depth and then 2'' for your handrail and progress energy requires 36'' wide for the steps. For a total of approximately 46''.

HVAC systems also have to be elevated on a platform if it is located in a flood zone. Typically manufacturer's specs require a clearance of 12'' and then a unit could be 24'' to 36'' in width. It is staff recommendation to discuss the allowance of 4 feet into the setback to accommodate these types of situations in flood hazard areas only.

ARTICLE 3. ZONING DISTRICT REGULATIONS

Sec. 3.9. Dimensional standards for the various zoning districts.

- b) *Other special dimensional standards*. In addition to the dimensional standards set forth in Tables 3.9.1 and 3.9.2, the following special dimensional standards are established:

Option A

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

Option B

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

Commissioner Wilcox said that most HVAC units are 12 inches so you end up out about 4 feet but they don't require stairs for those. Usually these services can't go behind a building because you typically have decks in the back and/or front so this is a problem. Commissioner Lancaster said he agrees that it is a problem and an eyesore and would be a danger to your neighbor if you have a problem and suggested that we have them put behind the house even if the deck has to be smaller. Commissioner Wilcox said they would end up in front of the rear of the unit because they have to be up approximately the same level as the first floor. Chairman Johnson asked what staggered distance has come up and Zoning Administrator Hardison said the Fire Marshall hasn't really given a number. Chairman Johnson asked if this is only in the flood zone and Zoning Administrator Hardison said yes. Commissioner Wilcox asked if most people are cantilevering the HVAC ducts or are they putting posts out and Zoning Administrator Hardison said most are using cantilever.

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

Speakers:

Nick Habash, 308 Florida Ave. Mr. Habash reminded the Board of the previous discussion regarding planting trees and now the four foot intrusions and asked what is left. Mr. Habash said that the Board is attempting to solve each individual situation, but not the problem as a whole.

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

In regard to the elevated platforms, Commissioner Wilcox suggested that we require the vertical supports to be within 30 - 36 inches and let the deck cantilever go over that, but not exceed the four feet. In this way we are not encroaching the setback any more in the viewable area. Zoning Administrator Hardison said as long as Progress Energy is okay with the 30 inches, he feels this would be okay. Director Chase asked if the Electrical Inspectors of New Hanover County would object to this and Commissioner Wilcox said he believes that, although the inspector needs the access, it's Progress Energy who controls this. Commissioner Wilcox said this could be confirmed with Progress Energy and the County. Discussion was held and Option B was amended as follows: *Allowable intrusions into required yard setbacks for residential zones, elevated heat pumps, heating and air conditioning units may intrude in the required setback no more than three (3) feet. Metered platforms that are in a flood zone may intrude into the required setback no more than four (4) feet. Support posts, if required, may intrude into the setback no more than three (3) feet.*

Motion made by Commissioner Lancaster to accept the amendment to add electrical mechanical platform intrusions into our yard setbacks using Option B as amended; seconded by Commissioner Keith; all ayes.

ITEM #6 Chairman Johnson advised that this Item has been pulled.

ITEM #7 Modification for a Planned Unit Development for Tri-Coast Properties. Zoning Administrator Hardison read the June 1, 2005 memo as follows:

BACKGROUND/HISTORY:

The applicant is requesting a modification to the original planned unit development that was approved in October for a "traditional neighborhood development." The site is approximately 19 acres and approximately 5.05 acres is provided for open space. The applicant is proposing to reduce Croaker Ln ROW from 90' to 50'. The applicant is also proposing natural landscaping versus grass and sod and natural materials for drive ways and alleys.

ANALYSIS:

1. **Reduction of Croaker Ln ROW from 90' to 50'** The original plat of Wilmington beach has Croaker Ln with a 90' ROW. All other ROW that is in the Seagrove development is 50'.
2. **Allow for natural landscaping versus grass and sod.** Sec. 4-21.2 Appearance standards states that all landscaping shall be appropriately graded and seeded as applicable to establish a permanent lawn.
3. **To allow natural materials for drive ways and alleys.** ARTICLE 7. OFF-STREET PARKING AND LOADING REQUIREMENTS. States that all *required surfacing for parking facilities* shall provide a paved surface of concrete or asphalt material. Concrete pavers, brick, "turfstone", or similar material may be used if determined to exhibit equivalent wear resistance and load-bearing characteristics as asphalt or concrete.

Section 16.1 of the Zoning Ordinance: Residential, business, and industrial planned unit developments are conditional uses 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 purpose of providing for these conditional uses is to promote:

- (1) Improved compatibility of new development with existing residential neighborhoods, commercial enterprises, and industrial uses;
- (2) Flexibility of design to take greatest advantage of a site's natural and developmental qualities;
- (3) Accumulation of large areas of usable permanent open space to preserve important natural resources; and
- (4) of land that may result in lower development and public service costs.

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 Technical Review Committee has reviewed this project several times over the last year. Up to this point the project was approved ready for development. The recent modifications require a modification to the Conditional Use Permit approved in September. Staff has received comments from the following agencies:

- Operations (Stormwater), - If natural material is to be used the town will not be responsible for cleaning the material from the streets.
- Fire and Inspections. - That there will be a lawn sprinkler system to help eliminate fire hazards.
- Town Manager - There should be sprinklers for all areas, concrete aprons and boundaries and there would be no break from the fees.

Planned Unit Developments and Subdivisions are allowed with the approval of a Conditional Use Permit in R-1 zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions**:

1. The modifications that are approved for the Wilmington Beach Subdivision including redesign of right-of-ways must be recorded with the New Hanover County Register of Deeds by approved subdivision plat.
2. The number and types of vegetation must be included on the final site plan. No certificates of occupancy shall be issued until landscaping is planted according to approved final site plan or satisfactory letter of credit issued to cover the cost of installation and materials.
3. Maintenance of parking, streets, drainage systems, utilities, and other such facilities- All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the performance residential 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.
4. Must meet all conditions recommended from the Technical Review Committee.

Commissioner Wilcox inquired what materials will be used for the proposed driveway and Zoning Administrator Hardison said it will be Coquina. Commissioner Wilcox said there was a meeting with Operations and Council a few months ago regarding this issue and he hasn't heard anything about it. Zoning Administrator Hardison said he believes Operations met on this but we haven't heard from them yet. Commissioner Lancaster asked if this is a 50' setback or 90' setback and Zoning Administrator Hardison said it shows a 90' setback. Commissioner Lancaster asked if Stormwater said anything regarding the natural foliage even after crowning the lots for structures as it applied to managing stormwater and Zoning Administrator Hardison said that stormwater will be handled. Commissioner Wilcox added that stormwater wanted to have everyone lay sod along the fronts of the yards to keep the trash out and Director Chase said that is why the applicant is here tonight, to request a modification from their standard. Commissioner Wilcox asked what Operations said about the driveways and Director Chase advised that they said if natural materials were used, the Town will not be responsible for cleaning it up out of the Town's right-of-way and they wanted it bordered with concrete apron and boundaries. Chairman Johnson

asked if all this is down the alley ways except for where it exits onto the streets and Director Chase said that is correct. Commissioner Wilcox asked if the alley ways are private and Director Chase said yes. Commissioner Wilcox said that although he thinks this is great, it mystifies him that the Town is willing to allow this. Commissioner Wilcox asked how many driveways there are and Zoning Administrator Hardison said there are 105 homes plus a Clubhouse. Chairman Johnson asked if anyone found a reason that Croaker Lane was made a 90' right-of-way instead of 50' like the other streets and Zoning Administrator Hardison said he isn't sure, but possibly because it was, at one time, going to be a boulevard.

At this time the applicant, Jim Wallace, addressed the Board. Mr. Wallace said that in regard to the right-of-way on Croaker Lane, they are trying to be consistent with the rest of the neighborhood and that he also believes that, at one time, this was going to be a thoroughfare, but when they built Carolina Sands, that plan no longer worked because it would have dead ended into Carolina Sands. Mr. Wallace showed the Commission a rendering of the streetscapes and explained that with the 90' right-of-way, it will make that part of the community look like it is disconnected which is why they are hoping the Commissioner will let them reduce it to a 50' right-of-way. Mr. Wallace passed out some renderings of how they would like to landscape. In regard to the landscape plan, their goal is to maximize the amount of natural vegetation while providing areas of colorful textured landscaping. The only natural vegetation that will be disturbed will be what is necessary to construct. Mr. Wallace said that the benefits of a natural landscape are less water and pesticides and a much more natural look to the area. In regard to the coquina, Mr. Wallace said they believe it's a good looking product and has some pervious attributes to it unlike pavement which is harsh to the eye. Additionally, it's very durable. Commissioner Lancaster asked Mr. Wallace if he ever drove on crushed coquina and Mr. Wallace responded yes. Commissioner Lancaster said that a lot of dust comes up and Mr. Wallace responded that if it's very dry at night, that's possible. Commissioner Lancaster asked Mr. Wallace how they plan to handle the transition between the natural area and the introduction to the stormwater system and Mr. Wallace said it will be probably slow down more than if it were a lawn because the shrubbery they will require. Commissioner Lancaster asked if there will be drains in the driveways to catch whatever runs off the lots so it doesn't get into the stormwater system. At this time Joe Albanese of Wrightsville Builders advised that the concrete aprons that are required by the Town of Carolina Beach that run from the edge of pavement right up to the property line and from there is six inch concrete borders on either side of the coquina alleys or driveways to encapsulate the coquina. Mr. Albanese said he doesn't believe there will be much of a problem in regard to run-off because the coquina is about six inches thick. Chairman Johnson asked about the clubhouse area and said that it will be buffering the street fairly close and he feels the coquina would be a problem over there as far as it getting on the street. Mr. Albanese said that it is a large area and maybe asphalt should be used. Director Chase said he believes the plan for the clubhouse that has already gone through the process, was asphalt.

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

Speakers:

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

Discussion by the Board. Commissioner Newkirk said his questions were answered and he has no problems with the request. Commissioner Lancaster said he is okay with the concept but he would like to see traps at the intersection of the driveways or the aprons and the street to capture any water that runs out of the driveway or more importantly, the trash that comes onto the apron when you drive in and out of the coquina rock. It can be graded and you can keep them cleaned out that way, but it will not be a city responsibility to do that. Commissioner Lancaster said that with regard to landscaping, if you're not into cutting grass, this is a great timesaver. Commissioner Lancaster further said that he has no problem with the right-of-way, but he is most concerned about having to hear that we have a change in what's acceptable to Operations regarding what you can use for driveways at the time we have an applicant being heard. The Planning & Zoning Commission should get any update as to what is acceptable to the Town prior to hearing it through the applicant. Commissioner Newkirk suggested that we have the applicant write into the Homeowners by-laws that they are responsible for this clean up and Director Chase said that can be recommended by the Planning & Zoning Commission. Commissioner Keith said he thinks this is great although he is surprised by the inconsistency of the TRC. Commissioner Wilcox said regarding the drives leading off to the main streets, the traps can only be on the lot at the property line and Commissioner Lancaster said wherever it can go is fine. Commissioner Wilcox said he is inclined to not approve the driveways until Operations gets their act together as he is perplexed about this since it took two years to get them to allow a couple of individuals to do crushed oyster, etc., but since most falls into the private alleys, he wouldn't hold it up. Chairman Johnson said he has no problem with the reduction of the right-of-way and the landscaping, but he does concur with Commissioner Lancaster that the traps need to be installed where the alley ways empty onto the private or public streets and he recommends this be approved with those conditions adding also the verbiage from Operations stormwater be added into the Homeowners Assoc. by-laws and staff's recommendations as presented along with the TRC. Commissioner Lancaster said the by-laws say someone will have to do it, but somebody needs to be responsible for it.

Motion made by Chairman Johnson to approve this with those conditions and adding the verbiage from Operations Stormwater to be added into the Homeowner Associations By-laws who will be responsible for cleanup and staffs recommendations as presented along with the TRC; seconded by Commissioner Lancaster; all ayes.

ITEM #8 Rezoning from HB (highway business) to R-2 (residential) by Ron Jessup. Zoning Administrator Hardison read the June 1, 2005 memo as follows:

BACKGROUND:

The applicant desires to rezone a portion of the property located at 404 Risley Road & 1300 N. Lake Park Blvd to the R-2 zoning district from the Highway Business (HB) zoning district to allow for single-family homes. The zoning for 404 Risley Road & 1300 Lake Park Blvd. is split with land on the west side zoned HB and land to the east zoned R-2. Properties to the northwest are zoned HB and to the northeast are zoned R-2. Properties to the southeast are zoned R-2 and to the southwest are zoned HB. The R-2 zoning district allows for single-family residential development.

SURROUNDING LAND USES:

Single-family residences surround the property to the northeast, southeast and east. The property is bordered by Portside Subdivision to the northeast. To the west of the property is vacant property currently for sale zoned as highway business (HB) and across Risley road to the southwest, a single-wide manufactured home exists.

STAFF POSITION:

The area is classified as **The St. Joseph/Spencer-Farlow Area (See 1996 Land Classification Map)** *A primary focus of the Town's growth management efforts will be on controlling the nature and intensity of new multi-family/marina developments so that they are compatible with the existing character and use of the area. Particular attention shall be paid to traffic generation, cut through traffic, and parking demands related to new developments.* The applicant's properties are contiguous to the R-2 zoning district and the zoning line splits the applicant's properties. Planning Staff supports the rezoning given the surrounding land uses and the 1997 Land Use Plan.

Commissioner Wilcox referred to the site map and said he believes there is 200' – 300' of highway business from Lake Park back to where the requested rezoning line is and Zoning Administrator Hardison said it's probably over 400'. Commissioner Newkirk asked if this wasn't rezoned a while back and Zoning Administrator Hardison said it was a different area and it wasn't forwarded to Council.

At this time Scott Jones, who is helping Ron Jessup with the project, addressed the Commission in representation of the applicant who was out of town. Chairman Johnson asked if this is the total extent of this property or do the boundaries go further to the west and Mr. Jones said it extends further, but that section will remain HB. Chairman Johnson asked if the intention is to build single family and Mr. Jones said yes. Commissioner Lancaster asked if there will be a subdivision plan submitted at a later point and Mr. Jones said he believes TRC said there is a possibility to get three or four lots in there. Commissioner Wilcox said there was an easement on the neighboring property and asked if they plan on using the easement for the neighborhood. Mr. Jones said yes. Commissioner Wilcox inquired what a person is allowed to do with such an easement such as improvements, etc. Director Chase said you need permission from the property owners.

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

Speakers:

Michelle Connett, 1321 Cabo Ave. Ms. Connett said she is very much in favor of turning this into a R-2, but is concerned about the huge, old oak trees and would like the developer more than encouraged to incorporate them into the housing development.

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

Discussion by the Board. Commissioner Wilcox said he has no problem with the rezoning and wonders if the rezoning should be extended to come up to the next lot. Commissioner Keith said he is glad to see more single family area. Commissioner Lancaster said he's okay with this. Commissioner Newkirk asked if all of the adjacent property owners were notified and Zoning Administrator Hardison said yes. Commissioner Newkirk said he has no problem. Commissioner Harris said she has no problem with it. Chairman Johnson said he has no problem with the rezoning, but would like to entertain the condition to work with planning staff to try to save the large oak trees that exist on this property. Director Chase said this can be noted as a recommendation.

Motion made by Commissioner Lancaster to approve the request to rezone a portion of the property at 404 Risley Rd. and 1300 N. Lake Park Blvd. in accordance with the recommendations by staff; seconded by Commissioner Harris; all ayes.

ITEM #9 Rezoning from R-1B (residential) to MB-1 (marina business) by Vaughn King. Planner Parvin read the June 2, 2005 memo as follows:

BACKGROUND:

The applicant wishes to rezone 401 Marina Street from R-1B to MB. 401 Marina Street is a 9,852 square foot parcel that has been combined with the adjacent parcel utilized as the Oceana Marina. The portion of this property in question is currently utilized as a road connecting Florida and Delaware and as a driveway for the Oceana Marina.

SURROUNDING USES:

The surrounding uses for this property are MB to the northwest and SFR on all other sides. The change in zoning will allow the owner to utilize the property to expand the existing Marina.

ANALYSIS:

The 1997 Land Use Plan states the following: *“With the possible exception of the MB-1 commercial district at the marina, the Spinnaker Pointe area shall be allowed to continue to develop in accordance with the plan approved by the Town, and as permitted by the zoning ordinance.”*

STAFF RECOMMENDATIONS:

The decision to rezone the property should not be based on the proposed use, but on its consistency with policies, surrounding uses, and the Zoning Ordinance. The request is located contiguous to zoning consistent with the proposed zoning change and existing surrounding uses.

Planner Parvin advised that there has been some confusion and this rezoning has nothing to do with the recent lot sold by the Town.

Commissioner Lancaster asked Planner Parvin what his recommendation means, that he hears what is said but needs to know what that means. Planner Parvin said it would be up to Planning & Zoning to determine, but it is being used for the driveway and the road now, so it is consistent with the marina business. Commissioner Lancaster asked if it's a public street maintained by the Town regardless of its use and Planner Parvin said no, it is not a public street and is still on his property. Chairman Johnson asked if the Town has any easement there and did we pave that street. Planner Parvin said he is not aware of who paved the street, but it's not the Town's maintained street. Chairman Johnson asked if that street could possibly be done away with and Planner Parvin said yes. Chairman Johnson asked if TRC had a problem with that and Planner Parvin said no.

At this time, the applicant, Vaughn King, addressed the Board. Chairman Johnson asked Mr. King if this street will be done away with and Mr. King said he doesn't believe it would have to be at this time. Commissioner Lancaster said there is access from either on Florida or Georgia to all of the property that would require emergency support without the use of that street. It might be convenient, but it's not required.

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

Speakers:

Nick Habash, 308 Florida. Mr. Habash said he is right next to Mr. King's property and he has a lot at stake over the possibility of losing access to the intracoastal waterway through the park. Mr. Habash said that the crossover street from Georgia to Florida services his existing house and it's been used for over twenty years to access the garage and crossover. Mr. Habash said he has been assessed for paving that street and he has records of that. Mr. Habash said this would be a definite loss if the street were to be removed.

Haynes Rhodes, 400 Virginia Ave. Mr. Rhodes asked who bought the property that the Town just sold. Commissioner Lancaster said that question isn't pertinent to this issue and Mr. Rhodes asked if it would be inappropriate to ask what that property will be used for and Chairman Johnson said he doesn't know who bought it, that he can only repeat what the Gazette wrote which is that the sale was approved for sale by the Town for \$3.4 million dollars. Mr. Rhodes asked if there will be another hearing when Mr. Vaughn applies for a permit to build condominiums and businesses all over that lot. Commissioner Lancaster said if he does, there certainly will be. Chairman Johnson said if it is a permitted use, there will not be a hearing, only if it requires a conditional use permit will there be a hearing. Mr. Rhodes said that if what he is hearing is right and Mr. Vaughn plans on this major construction of condominiums, there will be a major parking problem there and he hopes that would be a significant consideration.

Bill Clark, 233 Florida Ave. Mr. Clark said that this was zoned residential for a reason. If you take that spot of property between the consistency of single family zoning, you are changing the intent of the whole neighborhood.

Birdie Clark, 233 Florida Ave. Ms. Clark said she understands that what is before the Commission tonight is one issue, but she does not feel that it's not relevant to the discussion to talk about some of the other things that this would lead to. If this is allowed to be rezoned marina business, then they wouldn't need to come before you with a conditional use permit because then it would be used for marina business. Ms. Clark said she understands that it wouldn't do Mr. Vaughn any good to have this section unless the next part of this puzzle is the purchase of the property that the Town owns and which, according to the paper, is sold. Ms. Clark said she doesn't think this discussion can take place without discussing these other issues and hopes that this is looked at very carefully.

Charma McKnight, 400 Spinnaker Point. Ms. McKnight said she understands that Mr. King is asking for one section of the Town land and she would like to know what he plans on doing since she heard also that he is planning on building condos and traffic will be a problem.

At this time, Commissioner Lancaster said that today, for marina business zoned property by permitted use, the owner of an mb zoned property could build duplexes, single family detached dwellings and accessory uses and structures for the duplexes and/or single family uses. Anything else they choose to use there would require a conditional use permit.

Nick Habash, 308 Florida. Mr. Habash advised that the road in question has been there for over 53 years and he believes that establishes an easement. Commissioner Wilcox said that just because you've always been using something, doesn't mean you're entitled to continue using it for that. Mr. Habash said he believes this is incorrect as an easement gives him the right of use. Commissioner Wilcox said it's just an assumption at this point that it's an easement. Mr. Habash said that use establishes an easement and time is the criteria. Commissioner Lancaster said that the point Mr. Habash brings up is a point of real estate law, that if there is an easement by use that is permitted without questions, then there would need to be legal action to either confirm that the easement exists or that it does not.

Jeannie Mintz, 605 Georgia Ave. Ms. Mintz asked if anyone has addressed the sewer problems in that area and this will overload the sewer systems more. Ms. Mintz asked also about the water pressure and said that Calvin Peck says it's not going to effect water pressure, but this is the same man that botched the beach rake and said there was no good profit on the north end and we had no erosion problems, so much for what Calvin Peck knows. Ms. Mintz said there are major traffic problems which currently inhibit emergency vehicles and it seems to her that everybody is rushing things and we need to deal with the problems we have rather than going into adding more problems. At this point Commissioner Lancaster said that we have spent the last two years working on a revised Land Use Plan and he doesn't recall any comments like the ones she is making in the open public forum that we had every month regarding how we used the property or what other infrastructure problems we had. The problems she is talking about are not being disagreed with, but there has been an opportunity to speak to them and it would have been nice if all the interested people showed up. Ms. Mintz said she agrees with the Commissioner and she shouldn't have to go to every single meeting since common sense should tell us something. Commissioner Lancaster said maybe just the ones that are set up to address the kind of issues she is talking about. Ms. Mintz said either way, it always comes back to the basics and maybe this needs to be looked at a little more closely.

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

Commissioner Lancaster said he believes there is an unresolved legal issue and he would recommend this request be tabled until the Town and/or the opponents come up with a legal position that will support the status of the road or easement or whatever exists. Commissioner Wilcox said he isn't sure the applicant should be held up on denial or approval based on a legal challenge that may not exist. Commissioner Lancaster said the legal challenge does, in fact, exist since current real estate law in North Carolina recognizes an easement issue. Commissioner Wilcox said he understands that but there is nothing on the table right now that anyone is challenging this legally. No one has an attorney and no one is before us challenging this legally.

At this time the applicant, Vaughn King, addressed the Commission and said that the Marina has been there for over twenty years being used as a marina. The entrance into this property has been used for our use or the marinas use, since day one. Therefore, being zoned residential for this period of time really doesn't make any sense. Mr. Vaughn said he is asking for this to be zoned as what the rest of the marina is and that's all he is asking for.

Bill Clark, 233 Florida Ave. Mr. Clark said this is a continuous residential zoning. You'd be taking a spot in the middle of the residential zoning and mark it as something else. This would set a precedent for other people to come and ask for the same thing. Mr. Clark said he is asking to protect the neighborhood with residential zoning.

Commissioner Keith said he agrees with Commissioner Lancaster and would like more information as to what's going on with the property the Town sold as well as any legal problems with the access to the road. Commissioner Newkirk said he concurs with Commissioner Lancaster, but he feels the biggest issue with him is that two meetings ago we had a property owner in R1b just on the opposite side of Georgia who was looking to have that zoning changed which would have allowed duplexes to come in. He doesn't see this as different to that plan. Commissioner Newkirk says he doesn't see this as consistent to what the commission did with the other property. To approve this would put it as a permitted use to

place a duplex there and there are other businesses that could be put there. Commissioner Wilcox said he is on both sides of this issue, but right now that's the only access to marina business and this is the mouth of that marina business property that by all rights should run with the marina business if it's going to be the entrance. Commissioner Newkirk said if the applicant came in today with an expansion of the marina, and was asking for rezoning to build a bigger marina, we'd have a different conversation tonight, but there is the unknown that opens up the permitted use table. Commissioner Wilcox said the one thing that will always be there, will be an entrance, therefore he doesn't know what the value of that property will be in regard to how much could be done on it. Commissioner Lancaster said that he is less concerned with the private citizen involvement in it than he is about the Town's use or taking of the property for use without getting involved before we got to see this. Clearly the Town doesn't have any ownership there and if the Town went in there and paved the street or did anything else to it and they don't have something in writing from the owner, then they have an obligation to clean this up before we have to deal with it. Director Chase said this is something that can be answered between this meeting and Council's. Commissioner Harris said she is going both ways, for the people who live in the area and the gentlemen who has had this marina for twenty years. Chairman Johnson said he feels this needs to be tabled because he has issues with the Town having paved this street and if the resident was assessed, he doesn't understand how that or using the taxpayers money to maintain this street for all these years could be.

Motion made by Commissioner Lancaster to table this for thirty days until we receive a response from the Town regarding how they plan to deal with the street; seconded by Commissioner Newkirk; Commissioners Keith & Johnson aye; Commissioners Wilcox and Harris, nay.

ITEM #10 Rezoning from MX (mixed use) to HB (highway business) for Gerald Patrick Bigley, Sr. Planner Parvin read the June 1, 2005 memo as follows:

BACKGROUND:

The rezoning will be for the lots: 202 Wilson and 505 N. Lake Park Blvd which have been combined into one parcel. The applicant wishes to rezone from MX to HB. The area in question is currently utilized as Eddie's Auto Sales and parking. The eastern portion of this lot is zoned HB while the western portion is MX.

SURROUNDING USES:

The surrounding uses for the property is Winner's RV Park in the HB zone to the north; Walker Realty in the HB zone to the south; Residential development in the MX zone to the west and commercial across Lake Park Blvd. to the east. The change will allow the owner to create primarily retail, office, restaurant, entertainment and other commercial services.

ANALYSIS:

The 1997 LUP states the following: *“Careful monitoring will be required to see that pressures for multi-family and commercial development do not get out of balance with the livability of the area. As an alternative to commercial and multi-family development, this area may be an appropriate location for small scale office and institutional uses, which is more significant for those areas between third and fourth streets”*

STAFF RECOMMENDATIONS:

The zoning change for this property will allow the lot to be zoned completely HB versus having two zoning categories. The decision to rezone the property should not be based on the proposed use, but on its consistency with policies, surrounding uses, and the Zoning Ordinance. The request is located adjacent to zoning consistent with the proposed zoning change and existing surrounding uses.

Commissioner Lancaster asked what the staff recommendation for this is. This doesn't give a recommendation. Director Chase said the end of the sentence which states the small scale office uses would be more appropriate, but this would be a borderline use.

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

Speakers:

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

Discussion by the Board. Commissioner Wilcox said he is all for cleaning up zoning lines, but you can't go in that direction with MX. Commissioner Keith said he has no problem with the rezoning. Commissioner Wilcox said he thinks this almost has to be rezoned. Commissioner Lancaster said he has a problem, but doesn't have a problem. Commissioner Newkirk said it's more compelling to allow it than not to. Commissioner Harris said it is on highway business. Chairman Johnson said it would be more consistent to be all HB. Chairman Johnson asked how this effects our current Land Use map and Director Chase said it doesn't effect it.

Motion made by Commissioner Wilcox to accept rezoning as proposed; seconded by Commissioner Keith; all ayes.

ITEM #11 Zoning Amendment of Article 16 Planned Unit Development and subsequent sections of the Zoning Ordinance. Director Chase read the June 1, 2005 memo as follows:

At the Planning & Zoning Commission meeting in April, the Planning and Zoning Commission recommended changes to the Zoning Ordinance concerning Planned Unit Development (Article 16). Planning Staff has attached for your review a copy of those changes, including a new proposal for multi-family development and minimum lot size. The Planning & Zoning Commission was presented with a request from the Level 5 Development Group in May that offered an example for multi-family development in R-1 neighborhoods west of Lake Park Blvd. It was recommended for denial by P & Z to Town Council. Changes now include language that will allow multi-family development only in locations where multi-family currently exists.

Upon recommendation from the Planning and Zoning Commission, these items will be forwarded for approval or denial at Town Council on July 12, 2005.

At this time, Director Chase went through the changes with the Commission and said changes were revised as follows:

Regarding 16.5 (1) Acreage Requirements, Commissioner Lancaster asked if all were in favor of no minimum acreage requirement – all ayes.

Regarding 16.5 (3) Density, Commissioner Johnson asked if all were in favor of leaving the 1 ¼ times the density as is – all ayes. Director Chase advised that he would like to leave what's old in their "*shall meet the density requirements established*" and then have an exception, but he believes in all cases we would want to see the density standards met, if possible, followed with the exception if necessary.

Regarding 16.5 (2b) Maximum Height, Commissioner Lancaster said this should say "**MAY NOT**" instead of "CANNOT".

Regarding 16.2 (1) Chairman Johnson said the only change was where it says "*between Canal Drive*" which should be changed to "*along Canal Drive*" and asked if all were in favor of this – all ayes.

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

Speakers:

Terry Hamm, Virginia Ave. Mr. Hamm said he would like some clarification. The way he read the paper said that Canal Dr. can be multi-family, everything else can be duplex. When he asked Town Council that, they said no, that Virginia, Florida & Georgia are excluded from multi-family dwellings. Mr. Hamm would like to know if you can build duplexes on Virginia Ave. and the Commission said no.

Cathy Kosterman, 1303 Canal. Ms. Kosterman said there is a nine unit building on the right side of her lot which has been there for 25 years. She has owned her land for about 3 years and said she has come to three meetings waiting for a decision. Ms. Kosterman said her lot is 75' x 168' and she is working with a builder, but she would like permission to be able to seek the permit. Commissioner Lancaster advised Ms. Kosterman to attend the July Council meeting and if approved, she can submit her plans the next day. Commissioner Wilcox suggested she submit it now as nothing has been changed.

Dorothy Dale, 1209 Canal Dr. Ms. Dale said she appreciates the Commissioners looking into this as it would be unfair to those with large enough lots to be penalized to just building duplexes.

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

At this time Chairman Johnson said that currently anywhere that there is multi-family, if the dwelling is destroyed by other than natural causes, you could not rebuild the same. Director Chase said this has been discussed, that if a house burns down, it would have to be proven by the fire marshal that it was by accident. Commissioner Wilcox said that anything that wasn't intentional could be rebuilt the same. Chariman Johnson asked if it's possible for staff to get this together for the July meeting and Director Chase said we will try.

Motion made by Commissioner Lancaster to recommend approval of the revision of Article 16 Planned Unit Development with the changes that were approved tonight (16.2 - subparagraph 1; 16.5 - subparagraph 1 and 2a, 2b, 2c, 2d and 2e, subparagraph 3; paragraph 16.6 - subparagraph 3a, 3b, 3c, subparagraph 4; 16.7 - subparagraph 2a, 2b and 2c; seconded by Commissioner Keith; all ayes.

ITEM #12 Non-Agenda. Commissioner Lancaster said he would like to see the Town's position on the request for rezoning for the Marina by the next meeting. Chairman Johnson said he has had several phone calls regarding the house at 8th and Columbia regarding the setback from the front street yard and asked if the 20' setback is to the steps or the physical structure. Director Chase said it's to the steps. Zoning Administrator Hardison said that the property in question is in R-3 and has a 25' setback from the front property line to the structure and it's been measured at 18 1/2' to the steps. Zoning Administrator Hardison said they will either have to go to the Board of Adjustments or rearrange their steps and they have been made aware of this. Chairman Johnson said that on 7th Street there is still no stop sign and this is the responsibility of Secof. Chairman Johnson said that Council requested the area north of Virginia on the north side be brought before the Board to be rezoned to conservation. Director Chase said he will be talking about that. Chairman Johnson said the last item he has is in regard to a letter he sent to Director Chase referencing our P&Z meeting of May 12, 2005 and would like everyone to get their response back to Director Chase. Director Chase said that some research has been done on the Hotelminiums/Motelminiums and whether it makes a difference and we haven't yet received a straight answer. Commissioner Lancaster said he would like to have something in writing from the Operations Dept. documenting the change on pervious surfaces and driveways and alleyways. Commissioner Wilcox referred to a house being built on the cater-cornered that has more than a 12" overhang and if we aren't going to enforce this, then we need to get rid of it. Chairman Johnson said he would hope that staff, prior to giving a certificate of occupancy in the future to any project, ensures that the project meets all the conditions by staff, P&Z or Council in order to avoid backtracking. Commissioner Wilcox referred to a structure, as an example, that's west of the deck house which is a hazard to everybody and asked if Code Enforcement Office Hoffer is addressing these type of things. Director Chase said Code Enforcement Office Hoffer is going as fast as possible on these.

At this time Director Chase addressed the Board regarding the rezoning of an area on Virginia going into Spinnaker Point and said that a small portion of those are located in Wetlands and from that point back to Canal Dr., a lot is located in Wetlands. Director Chase said there were quite a few complaints and a petition that was addressed to the Town to make some considerations to possibly rezoning those properties to Conservation. Director Chase said we have began the investigation process on what it would take to do that and have encountered a few issues with doing such. One being minimum lot size requirements for Conservation which requires 30,000 square feet and a lot of those parcels are not 30,000 square feet. Director Chase advised that we have contacted the Council of Governments and we may be able to get around that. Commissioner Lancaster suggested looking at this collectively and Director Chase said in doing collectively, it may not be an issue, but it still merits investigation at this point. Director Chase said that CAMA has come out to investigate the properties and they said they are not affected by CAMA and would not require a CAMA permit to develop. There are some access issues to these properties which would preclude certain development at this point, but there are a lot of concerned citizens in that area. Director Chase said they are aggressively investigating this and we need a recommendation from Planning & Zoning Commission to possibly call for a public hearing in July. Commissioner Newkirk asked what the hearing would specifically be for and Director Chase to rezone it to conservation. Director Chase said the land has been surveyed which generally generates a lot of curiosity, but we have not had any development plans for that property at all. Commissioner Wilcox asked Director Chase if he plans to have the Corp. of Engineers look at this and Director Chase said yes, that we will use that as investigative standards because we could get recommendations from them.

Chairman Johnson said that although nothing can be accomplished tonight, if there was anyone who would like to comment, that would be fine.

At this time Mr. Craig Wenger of 280 Williams Rd. in Wilmington, addressed the Commission and advised that he owns the large parcel of land in that area. Mr. Wenger said he purchased the property with an R-1b zoning with the intent of developing it and he doesn't believe the Town has the right to take his property and rezone it which would make it impossible for him to build on it. That would constitute a taking of his property and the Town would have to be prepared to reimburse him for any damages resulting from rezoning his property. Mr. Wenger has requested that the property be evaluated by CAMA and they have looked at the property and, although he doesn't have the findings with him, he believes the preliminary look indicates great development potential. Mr. Wenger further advised that he requested the Corp. of Engineers to look at the property and he believes these are the proper authorities to look at the properties. He doesn't believe that those making accusations about whether the property is wetlands or not or what it can be used for are qualified to make this judgment. This should be done by the proper officials and if they find the land is not developable, then it's not. Commissioner Wilcox asked if he has access to his property and Mr. Wenger said that he does. Commissioner Wilcox asked if he has an easement and Mr. Wenger said he owns the property next to it and according to Town rules, you can put three houses on an easement and he only has two at this point. Mr. Wenger said he could put a third one on. According to Town rules you need a 20' easement according to the fire regulations which he can satisfy as long as the Army Corp. of Engineers will allow him to run a 20' driveway. Mr. Wenger thanked the Board for hearing him.

Rex Creech, 204 Virginia Ave. Mr. Creech said that the property behind him was just purchased which took them by surprise because they thought it was marshland owned by the Town. Mr. Creech said if you just look out his back door you can look at the land and know that it's wetland. It is the only place for animals which is one issue and the other issue is having a house built right behind you. Mr. Creech said that the water and drainage problems have increased since the construction of the two houses above. Mr. Creech said that there is a petition with 137 names on it of homeowners who would like to see the rezoning go through.

Motion made by Chairman Johnson to advertise for the July meeting for consideration of the rezoning; seconded by Commissioner Lancaster; all ayes.

Chairman Johnson said he has appreciated serving as Chairman and he would like to serve out his term as Chairman unless there are other changes in the fall. His term as Chairman is up and there needs to be an election tonight. Commissioner Lancaster made a motion to reelect Chairman Johnson as Chairman for another term; seconded by Commissioner Wilcox; all ayes.

ITEM #13 Adjournment. Meeting was adjourned by Chairman Johnson at 11:30 p.m.

Respectfully Submitted,

Renee M. Fitzpatrick, Secretary
Planning & Zoning Commission