

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

***December 13, 2006***

The Town Council of the Town of Carolina Beach met in special session on December 13, 2006 at 7:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor, Bill Clark; Mayor Pro Tem (MPT), Alan Gilbert; Councilwoman, Pat Efird; Councilman, Jerry Johnson; and Councilman Joel Macon. Also present was Town Manager, Tim Owens and Town Clerk, Lynn N. Prusa.

Mayor Clark called the meeting to order.

**Mayor Clark made a motion to amend tonight's agenda and add to the agenda a request for closed session (In compliance with G.S. 143-318.11(a)(3) attorney/client privileged information, (5) real estate and (6) personnel). MOTION CARRIED UNANIMOUSLY.**

***CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR SEA SIDE, 2 SINGLE FAMILY HOMES UNDER PLANNED UNIT DEVELOPMENT LOCATED AT 1701 CAROLINA BEACH AVENUE NORTH***

Before the presentation began the following were sworn in: Tim Owens, Town Manager; Ed Parvin, Senior Planner; and Jeremy Hardison, Zoning Administrator.

Mr. Hardison said this property is located in the R-1 zoning district. Planned unit developments (PUD) are allowed by a Conditional Use Permit. The ordinance states that PUDs are 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. Using the overhead, he said this picture shows there was a single family home there that has been removed and there are pilings in place. The applicant did have a permit in hand to build a duplex. That was permitted on October 25, 2005. They have abandoned that project and would like to move forward with this one as being proposed at this time. If the conditional use permit (CUP) is approved, the applicant would like to use the existing pilings that are in place. The 2 single-family dwellings will have a total foot print of 2,225 sq. ft. The parcels are located within the 100-year floodplain and will be required to have elevated living space. The property is also located within a CAMA Area of Environmental Concern. The parcel is a 125 X 50 corner lot.

Mr. Hardison showed a site lay out. The total square footage of this property is 6,250 square feet. Density in R-1 is 15 units per acre. For this square footage, you are allowed to have 2 units. R-1 zoned properties allow for a maximum lot coverage of 40% which includes the footprint of the buildings, decks and steps. The footprint of the structures is 2,225 sq. ft or 35.6% lot coverage. Mr. Hardison said that the dwelling located off of Carolina Beach Avenue North will be 40 feet in height and the rear building, which the driveway entrance will be off of Sea Oats Lane will be 50 feet in height. The applicant is requesting a 10' separation between the dwellings under PUD requirements. The minimum separation between on-site structures is fifteen (15) feet 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. They are asking for that requirement. The ordinance calls for 15 feet between structures and they are going to 10 feet.

Mr. Hardison said you have the setbacks before you - what's required and proposed.

Setbacks

<b>Zoning Setbacks</b>	front	Rear	side	corner
required	20'	10'	7.5'	12.5
proposed	21'	11'	7.8'	12.5'

They are meeting all required setbacks.

Each dwelling will have four parking spaces, which is required by the ordinance.

The landscaping will be provided in a "Type A" landscape buffer on the front and sides of the lot.

***Infrastructure***

The applicant plans to retain all storm water on-site and the applicant had no problem providing curb and gutter to the location.

The project is in general conformity with the '97 Land Use Plan. You have the North End policy statement in front of you.

Mr. Hardison said that before you, you have the required findings, the specific standards and general conditions.

The Technical Review Committee (TRC) heard this proposal at its September 25, 2006 scheduled meeting. The following comments that you have before you are addressed. You also have the motion that was made from Planning and Zoning on October 12, 2006. They unanimously approved the project. Before you, you also have the staff's recommendations. He noted that under #22 of the staff recommendations, TRC curb and gutter was recommended for installation. At Planning and Zoning, they made a recommendation that the project not be subject to curb and gutter or sidewalk installation.

I will answer any questions that you may have.

**Since there were no questions, Mayor Clark made a motion to open the public hearing.**  
**MOTION CARRIED UNANIMOUSLY.**

Mayor Clark said we would like the applicant and any one who would like to speak for or against this project to come and be sworn in if you would. The applicant, Michael Kirkbride, was sworn in.

Mike Kirkbride said, I am here this evening to go over why we brought this forth. We looked at doing a large duplex. If you look at this drawing, what we had is basically the same structure but we filled in that 10 feet with a larger rear unit. In other words, the gap became more of the rear unit. What we looked at was based on our market place currently. The two single family homes instead of the typical duplex on a corner lot just made more sense. It seems like a more viable project. If we look at the 1700 block of Carolina Beach Drive, it also has a brand new single family home on it on the ocean side. These being across the street would be two single family, to sort of frame that 1700 block of

Carolina Beach Avenue North. I think that is why we thought that the PUD might make sense in this case and because it's a corner lot we can have access to both driveways from different streets. Ergonomically it kind of makes sense. That is why we are before you tonight.

Councilman Johnson asked, if you were to install the curb and gutter is this rollback curb and gutter? Mr. Kirkbride answered I think the town would be specifying it. The town's Operations Director, Mr. Pagley, said that the specifications require rollback. Mr. Kirkbride said I think at Planning and Zoning it was the citizens that were really kind of against it. We're open whichever way you go.

Mayor Clark asked if anybody would like to speak in favor of this project. There was no response.

Mayor Clark then asked if anybody would like to speak opposing this project. Again there was no response.

**There being no further public comments, Mayor Pro Tem Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Gilbert said to Mr. Hardison that the way this sentence reads is a little confusing. They are going with a 10 foot separation but traditionally in a PUD it's 15 foot. Mr. Hardison said that is correct. Mayor Pro Tem Gilbert continued, and the fire marshall has basically said a minimum of 10 feet and then concrete board exterior siding. Mr. Hardison said that is a condition. Mayor Pro Tem Gilbert clarified, so fire item #1 and #2 is a condition of this approval. Mr. Hardison replied that is correct, in order to go 10 feet and deviate from the standard of 15 feet.

Mayor Pro Tem Gilbert asked about the 8 inch line on C/Os, concrete apron on driveways, and concrete curb and gutter. Are we striking that item #3, which is concrete curb and gutter? Then what about concrete aprons on driveways? Mr. Hardison said the concrete curb and gutter was a recommendation from TRC. Planning and Zoning did not see that for this type of project a fit for curb and gutter so they didn't recommended it. They didn't have a problem if the applicant wanted to do it but they just didn't see it as a condition for the applicant. Item #3 is really if you would like to make that as part of the condition.

Councilman Johnson said, just for clarification, there is no other concrete curb and gutter anywhere on Carolina Avenue North, Sea Oats or Canal Drive, is that correct? Mr. Owens said they would do the concrete apron. I think that was another part of that question. Councilman Johnson said I'm just talking about the curb and gutter. In that general area, there's no other. Mr. Hardison said this condo complex, where there is actual parallel parking on the street and on the other side of the parallel parking, they do have a curb and they do have a little sidewalk there. On Sea Oats there is no curb or gutter. On the 1800 block of Carolina Beach Avenue North, I believe there is no curb and gutter. Steve Pagley said that down by the gazebo there is curb and gutter. Councilman Johnson asked, on Carolina Avenue North where the project is? Mr. Hardison said on this side of the street you can see there is a lot of driveway pavement, but there is no curb and actual sidewalk on the west side of the street.

Councilman Johnson asked for one other clarification. Under the fire conditions, is the concrete board exterior siding for both structures?

Mayor Pro Tem Gilbert said we've got conditions 1 through 22. Twenty-two is concrete apron, curb and gutter shall be installed in accordance to Article 8 of the Zoning Ordinance and to be ADA

compliant. I don't see the fire recommendations as part of these 22. Can someone point them out to me? What I'm confused about Jeremy is that when we go to approve this, we've got to include all these things, but if we're striking through certain things up at the TRC level that aren't included on the conditions - it's a little cumbersome here. Mr. Hardison said there should have been a page 5. Is there not a page 5? Mayor Pro Tem Gilbert said there's a page 5. Mr. Hardison continued with a condition #24. Mayor Pro Tem Gilbert said okay, concrete board exterior siding, so that means your fire requirements and we don't have to worry about...so everything's included, that's what I'm trying to figure out. Mr. Hardison said all the conditions are included. The only thing I pointed out to you that may be in conflict with what Planning and Zoning recommended and what TRC recommended was the curb and gutter.

Councilman Johnson asked if item 15 and 18 are the same. Mr. Hardison said yes, you're correct. Councilman Johnson said I guess it doesn't make any difference as long as we go ahead and approve with the same number of conditions because they are both the same thing.

Mayor Pro Tem Gilbert said Steve wanted to talk about the concrete apron. Mr. Pagley was sworn in by the town clerk before proceeding.

Mr. Pagley said I prefer concrete curb and gutter. It maintains the integrity of the road up there. If you drive up there, you can see the edges breaking off and flaking away. At the minimum on the right-of-way there should always be concrete aprons for driveways. Mayor Pro Tem Gilbert asked, is it going to connect with anything? Mr. Pagley said nothing is going to connect at this time except in front and down the side of the property. Mayor Pro Tem Gilbert was curious how Councilman Macon feels about that. Mr. Pagley said I probably could answer for him and Councilman Macon agreed. Mr. Pagley said he's against concrete curb and gutter; that's why I'm asking for a minimum of the apron for driveways only. Councilman Macon said what I'm saying is he's got a building permit to build a duplex and he's just asking for a conditional use permit to try to build something a little nicer, are you going to make him put in curb, gutter, and a sidewalk? Mr. Pagley said I'm not pushing for sidewalks. I'm pushing for the driveways only. I'm not pushing for curb and gutter either. I'm just asking for the driveway. Mayor Pro Tem Gilbert said I'm just looking for some qualifications on this. The apron I can understand it but I understand the other arguments on the other side. Mr. Pagley said like I always said before, once he passes the right-of-way, I don't care what the driveway is.

Councilman Johnson said I would just like to note for clarification under the fire section, item 2, to add for both structures the requirement of concrete board exterior siding.

**Councilman Johnson made a recommendation that we approve the conditional use permit for Sea Side, 2 single family homes under Planned Unit Development located at 1701 Carolina Beach Avenue North with the required findings 1-7, general conditions 1-4, TRC Review with amending under fire to add the concrete board exterior siding that it is for both structures, staff recommendations 1-25 with the amendment of item 22 striking curb and gutter requirement. The conditions are as follows:**

**REQUIRED FINDINGS:**

*Specific standards. Applicant must make provisions for:*

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

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

***General conditions.***

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

**The TRC recommended the project to be submitted to the Planning and Zoning Commission with the following comment:**

**Fire:**

1. Minimum of 10ft separation between structures
2. Concrete board exterior siding for both structures

**Operations:**

1. 8" line on C/Os
2. Concrete apron on driveways
3. Concrete curb and gutter

**Town Mgr:**

1. Switch units so 3-story structure is behind 2-story structure (reverse map)
2. Apply for CAMA permit

**Planning:**

1. Parking plan
2. Subdivision plat for townhouses
3. Need bedrooms for write-up
4. provide open space
5. dimensions of the buildings

**Police:**

None

## STAFF RECOMMENDATIONS:

1. The stormwater plan must be submitted prior to issuance of a building permit. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit. The drainage system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
4. Approval from the Division of Coastal Management for a CAMA Permit.
5. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
6. Flood Certification must be presented prior to issuance of certificate of occupancy.
7. Prior to Certificate of Occupancy, an architect or engineer must confirm the structure's height is consistent with the conditional use permit.
8. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. Final project must be designed to provide the required 16 parking spaces.
9. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
10. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
11. Refuse collection agency that will be used must be included on final site plan. Before the issuance of a building permit, a letter of approval from the refuse collection agency stating the waste removal plan is adequate for this site
12. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
13. Maintenance of permanent open space parking, streets, drainage systems, utilities, and other such facilities-
  - a. All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
    - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
    - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the mixed use development for the purpose of ensuring maintenance of common facilities.
    - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
14. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
15. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
16. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review

Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.

17. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in Article 14 of the zoning ordinance.
18. Prior to issuance of a building permit, a plan that includes a grading schedule and construction schedule shall be approved by the TRC.
19. All lighting shall be directed to the interior of the property so as not to cause impact upon adjacent properties or to street rights of way. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used shall be included on the final site plan.
20. A scaled site plan must be submitted prior to issuance of a building permit. All drawings shall be prepared at a scale of 1" equals 50' or larger showing the site and all land within 150' of the site.
21. All lots utilized for the project shall be combined before issuance of a Certificate of Occupancy.
22. Concrete apron, ~~curb and gutter~~ shall be installed in accordance with Article 8 of the Zoning Ordinance and be ADA compliant.
23. All utilities required by TRC and staff recommendations shall be completed prior to the issuance of a building permit.
24. Concrete board exterior siding and minimum of 10ft separation between structures.
25. That the taps for the project must be located a serviced on Carolina Beach Ave N.  
If the applicant taps on to Sea Oats their will be a shared cost involved for the improvements of the line located on Sea Oats

**MOTION CARRIED UNANIMOUSLY.**

***CONSIDER A MODIFICATION OF A CONDITIONAL USE PERMIT FOR AN 11-UNIT MULTI-FAMILY DEVELOPMENT LOCATED AT 406, 408, AND 410 CANAL DRIVE***

Before this presentation began, the following people were sworn in: Tim Owens, Steve Pagley, Ed Parvin, and Steve Harrell.

The town's Senior Planner, Ed Parvin, explained that this proposal has been before you a couple of times before. It did go to Planning and Zoning in October and was unanimously recommended for approval with the general conditions, required findings, TRC notes, and 1 through 29 staff recommendations.

At this time, Mr. Parvin began using the overhead projector. I was going to talk a little about general conformity. We defined general at one of our Planning and Zoning meetings and I presented it to the Land Use Plan Ad-Hoc Committee as well - allowable by the Zoning Ordinance and not specifically in conflict with the goals and policies of the Land Use Plan.

What if a proposal is inconsistent? You can still approve a project if it's inconsistent as long as it's reasonable and in the public interest. If it's in the CAMA zone and it's inconsistent, then it will require the Land Use Plan modification. We've been doing these consistency statements for almost a year now. It was part of a general statutes amendment in 2005 that requires us to do this analysis. Originally when this project was permitted, we were not doing the Land Use Plan consistency analysis. The project was approved and now they're asking for the additional 10 feet in height, which there is a policy in our Land Use Plan that allows for that additional 10 feet. Facing inconsistencies will

continue to occur no matter our efforts and the vision of the community changes with diffusion and innovations. You're always going to see new projects coming before you. What I was trying to get at is there is always going to be a time where you are going to like a project but our Land Use Plan doesn't quite meet it. You may have to go back and amend the Land Use Plan or amend the ordinance to make it. We're doing that monthly.

Our Land Use Plan does lay out a process. This is our new plan that we're looking at implementing, the 2005, for identifying whether it's consistent or inconsistent. Essentially we will be looking at the policies and sections 4.0 and 4.3 and then we will determine which ones are relevant for the project. If there's some negative policies affecting the project, and height is an example that I gave in your memo. One of the policies 32, this isn't relevant for this project but it is pretty relevant building height in CBD. It says its potential neutral-negative impact and it tells some of the reasons why there's a negative impact for increase in height. You have large scale multi-family construction; you have more impact on infrastructure and things like that. Then there's also for those types of things, there's mitigation measures that you can put into place to counter those affects. The Land Use Plan actually gives some of those things. It might not necessarily be inconsistent with the plan but there's like a 60 or 70 foot building that wouldn't be inconsistent in the CBD right now but it would have some negative impacts and there's ways you can look at addressing that. That's actually spelled out in our new plan. That's a tool that you'll have in the future. We are using some of those tools now for future projects.

Mr. Owens asked, as far as the Land Use Plan consistency goes, isn't that just for zoning regulations? Maybe I'm totally wrong but isn't it just for zoning amendments and map amendments, is that where it's only required? Mr. Harrell said yes, sir. It's only required for an actual zoning amendment. We've always been asked to bring at least forward whether it's in general conformity as far as a conditional use permit. Mr. Owens said and that's just our policy. Mr. Harrell replied that's correct. Mr. Owens said I just wanted to make the point that we did not do that with the last one. Mr. Harrell said you don't do that unless it's a zoning amendment. Mr. Parvin said it's not required. They only have to adopt that statement.

Again this project has been presented to you before. I don't have anything new to present. It's additional one for set backs, 30 feet on the front, 15 feet on the sides for the extra 10 feet stability and footprint.

Councilman Johnson asked, did the Planning and Zoning Commission address the sidewalk, curb, and gutter issue for this project? Mr. Parvin said they did. Councilman Johnson asked, so the P&Z Commission wanted the curb and gutter and sidewalk for this project? Mr. Parvin said yes they did. Councilman Johnson asked if they gave a reason. Right now, Mr. Parvin replied, we have criteria that you have to evaluate. There are three or four different criteria in our ordinance whether or not it fits the area. When this was adopted in October, we did not review that part of the plan because it had already been adopted. They've already got their vested rights for this project. At that time, we didn't have criteria. It was actually approved last November, I think, by the Town Council and October 2005 by P&Z, so what that conversation was at that time, I don't remember. Councilman Johnson said so what you're saying is at that point in time we didn't have the new language. Mr. Harrell spoke up and said correct, yes sir. We changed that with the new criteria since that time. Mr. Parvin stated this is only to consider that they do already have approval at the 50 feet. The only thing that can be considered tonight is the modification for the height, the extra 10 feet.

Mayor Pro Tem Gilbert said I have a quick question for Ed. To your sentence “reexamination has been done since this plan was put in place and the changes recommended above were not recommended to be incorporated in the town ordinance”, when was that reexamination done? Mr. Parvin said it was done in 2000. Based on the '97 Land Use Plan, they went back and reevaluated and adopted basically a new ordinance and a map. Mayor Pro Tem Gilbert asked, why wasn't this taken out at the amendments? Mr. Parvin said he didn't know. Mayor Pro Tem Gilbert said what I would have expected in 2000, when you recognized that this language isn't appropriate for the 2000 zoning, that when you did your amendments you would have just pulled it out. It probably wasn't something you really recognized. Mr. Parvin said maybe they did. I don't know, maybe they had that discussion and decided they wanted to leave it in. Mayor Pro Tem Gilbert said or they liked it in 2006 but they didn't like it in 2000. I don't know. This is where I have an issue and I'll continue to have an issue, but I will do this. If we can apply a condition and ask the Division of Coastal Management to review this section and make a recommendation, you have to make a note on this one, for us to either amend our '97 plan and take it out or they give a recommendation that this isn't mitigating, that this project is consistent with this Land Use Plan and with this language in. Either take it out or have a statement that says from the DCM it is consistent with having that statement in. Whoever makes the motion or I end up making the motion, I'd like to have a condition 29 that basically says that.

Mayor Clark asked if P&Z was unanimous on their decision. Mr. Parvin said that is correct.

**Councilwoman Efird made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.**

Mayor Clark said I would ask the applicant and anyone who's going to speak in favor or to oppose this project, if you would be sworn in. Mr. James Yopp with Rockford Partners was sworn in.

Mr. Yopp said I've been before you many times with this project. I would like to briefly run through our presentation once again to refresh your memories of the project. We are asking for a conditional use permit for 406, 408, and 410 Canal Drive. Using the overhead, he projected an aerial view of their proximity to the CBD. We are located in the T1 District. The purpose of this T1 Zoning District is to establish and provide land for the town's tourist industry and as a complimentary district to the CBD (Central Business District). The primary land use is intended for this zoning district are moderate to high density residential development, as well as hotels, motels, and restaurants. This picture was taken a while back. Right now the site is actually leveled. He showed a slide of the existing building that was approved approximately January of '06 at 50 feet. Mr. Yopp said that based on recommendations from Council, we were asked to try and improve the aesthetics, the structure, and this is what we came up with. We reduced one of the floors to improve those aesthetics and added a gable roof. There were quite a few things that we did. We hired an outside architect, Michael Moorefield, who is extremely expensive to work on this project. We had numerous things through structural, plumbing, mechanical, and electrical designs to please the Council.

Now I'm going to run through improvements that we added to the structure. It is sixty feet in height, and it is a sprinkled structure, which is allowed by 3.9 of the Zoning Ordinance. It is 10 feet further from Canal Drive. We would step back from 20 to 30 feet, which is one of your sections in the Land Use Plan as 8.3. We already meet the additional side setback requirements which are an additional 5 feet from the sides – we're at 15 feet. We originally had a flat roof design and we went to a gable roof design. We are going to raise the parking from 7½ feet to 9 feet to allow for handicap parking. It will allow us to meet the fair housing act requirements. It's not a necessity as we presented to you the last time; however, we do think anything like that is an asset not only to the community but also to the

residents of this building. This allows us also to thicken the floor structures which will allow for a stronger more energy efficient building and more resistant to storm damage.

I also want to add that in the process of working on this project, we have now been changed to a V Zone, which of course has many other implications that we have to do structurally with this building to meet those requirements. Now a V Zone encroaches into wave velocity. Based on that V Zone it states that the new zoning district is saying that the V Zone stops at Canal Drive. Well our property is in the V Zone while on the other side of Canal is in the AE. I haven't figured a wave that would stop on Canal; nonetheless it's a federal situation that we're in. We will oblige to all those requirements.

We have more desirable units, healthier living environment with high ceilings, more natural light, and improved ventilation. These are recommendations from our architect as well as our PM&E designers, which is plumbing, mechanical, and electrical. It's an overall improvement to the outside aesthetics of the building. That was one of the recommendations from Council. These improvements will enhance the value of units and adjoining property owners.

When I finish the presentation, I will have a letter which I had submitted, but I don't know if it got to everyone of the Council members. The letter is from an outside appraiser and Councilman Johnson requested we do an outside appraisal of some surrounding buildings. I will present it to you a little bit later showing you his findings.

We have no increase in the number of units or density. Those have stayed the same. If anything, we have actually decreased our square footage by losing an entire floor.

The general conditions of this conditional use permit, "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." We feel we have met all of those. We are consistent with the area in which it is to be located. The Harbor View is less than 200 yards, it's actually closer to probably 400 feet or a little over 100 yards and it is I believe 60 feet or 56 feet; Arcadius is less than 200 yards and it is approved at 140 feet. Other recent projects approved at more than 50 feet, we can show you the Marina East project at 56' and also the Soundview at 56'. The policy adopted by this town reflects a general commitment to relatively low profile buildings with exceptions based on trade offs between additional building height and additional building setbacks. That's a specific thing in your Land Use Plan.

In summary, we feel like we're more attractive, stronger and safer, more handicap accessible, authorized by Zoning Ordinance, consistent with the Land Use Plan, and along with that I went through and kind of gave some dimensions at P&Z as to why we were needing that additional feet. As I said before, we have actually lost a floor to improve the structure to add different aesthetics and based on recommendations from engineers and everything we have attempted to do, we do need this extra height. It cost us more money to build it with the additional height. If we are looking for any type of mitigation, we are bringing a water line to the project, approximately \$23,000, which was recommended by Steve Pagley. We agreed to do so.

If a general conformity statement is given in an ordinance versus a specific, the specific is always used and the specific is given here. That's what we used when we purchased the land. That's what we've used as we stand before you today, is we've used the specific language in your Land Use Plan.

Now I would like to present to you Robert Glenn. He is an appraiser in Wilmington. Once again Robert Glenn has real estate valuations and development. He is an outside appraiser. At our request his statement is that he has researched the consequences of increasing the building height at 408 Canal Drive to 60 feet as allowed by zoning. He states that his methodology for this research was to form a physical inspection of several properties that had building heights that were noticeably higher than one or two floors over their adjacent properties and then to determine if the sale prices for the adjacent properties were any lower than the sales found for properties that were not adjacent to a building that were higher. He found no evidence or support for the theory that increasing the height of a property will lower the value of the adjacent properties with lower heights. Carolina Beach is proliferated with properties of different heights and generally newer buildings are higher than older properties yet both types of properties have had similar property increases. Any differences in price for residential properties can generally be attributed to the condition of the property itself not its building height or adjacent property building heights. (*Exhibit 1*) I hope that satisfies Councilman Johnson. We tried to appease you on that. If there are any questions, feel free to ask.

Councilman Macon stated I would like to point out that it's not the applicant that has to prove that he's not devaluing the property. It is someone who doesn't want the project that has to prove that his property is going to be devalued by the project.

Mayor Clark asked if anyone would like to speak in favor of this project.

Since no one came forward, Mayor Clark asked if anyone would like to speak in opposition to this project. Again no one came forward.

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

Mayor Pro Tem Gilbert had one quick question. He said, it refers to 1-29 staff recommendations and there are only 28. He asked if he was missing one. In humor, Mr. Parvin said I was anticipating your additional recommendation.

**Mayor Pro Tem Gilbert made a motion to approve a conditional use permit for 11-units at 406, 408, and 410 Canal Drive based on the required findings 1-7, general conditions 1-4, TRC notes from planning and fire, staff recommendations 1-29 amending with #29 a statement from DCM either to eliminate the 9.4 as referenced in the memo or disregard it before moving forward with construction and staff's opinion that the project is in general conformity with the Land Use Plan.**

**The conditions are as follows:**

**REQUIRED FINDINGS:**

*Specific standards. Applicant must make provisions for:*

- (1) 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, Ingress and egress to property and proposed structures thereon with particular reference economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

***General conditions.***

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

**TRC Review**

**Planning:**

- Show 6ft. fence with 80% opacity on the site plan
- Move dumpster to the east to get out of sight triangle. Enclose on 3 sides. Indicate waste collection company and frequency of pick-up in narrative
- Label parking space adjacent to handicapped as handicapped loading area.
- Re-calculate open space and state this number in your updated narrative
- Show your entry gate and at least two vehicles ability to stack outside the gate without encroaching onto Canal Drive. Discuss in your narrative the gate opening for the fire department access.

**Fire:**

- 8” waterline on Seagull Lane from Canal Dr. to CBAN

**STAFF RECOMMENDATIONS:**

1. The stormwater plan must be submitted prior to issuance of a building permit. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit. The drainage system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
4. Approval from the Division of Water Quality for a CAMA Permit.
5. Approval Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.

6. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
7. Flood Certification must be presented prior to issuance of certificate of occupancy.
8. Prior to Certificate of Occupancy, an architect or engineer must confirm the structure's height is consistent with the conditional use permit.
9. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. Final project must be designed to provide the required 22 parking spaces.
10. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
11. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
12. Refuse collection agency that will be used must be included on final site plan. Before the issuance of a building permit, a letter of approval from the refuse collection agency stating the waste removal plan is adequate for this site
13. All structures must be designed to meet NFPA approved Fire Sprinkler systems and meet minimum NC Fire Prevention Code. Approval letter must be submitted prior to Certificate of Occupancy.
14. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
15. A sign permit must be obtained for any new signs located on the property.
16. Maintenance of permanent open space parking, streets, drainage systems, utilities, and other such facilities-
  - All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
    - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
    - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the mixed use development for the purpose of ensuring maintenance of common facilities.
    - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
17. Certification shall be provided that all improvements, including but not limited to paving, drainage, storm water, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
18. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
19. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Storm water/Public Works and Fire.
20. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in Article 14 of the zoning ordinance.
21. All lighting shall be directed to the interior of the property so as not to cause impact upon adjacent properties or to street rights of way. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used shall be included on the final site plan.
22. Water meters must be relocated in the right-of-way and run 11 lines to the units.

23. A scaled site plan must be submitted prior to issuance of a building permit. All drawings shall be prepared at a scale of 1" equals 50' or larger showing the site and all land within 150' of the site.
24. All lots utilized for the project shall be combined before issuance of a Certificate of Occupancy.
25. Existing pool shall be upgraded to commercial code requirements
26. Sidewalks curb and gutter shall be installed in accordance with Article 8 of the zoning ordinance and be ADA compliant.
27. All utilities required by TRC and staff recommendations shall be completed prior to the issuance of a building permit.
28. An 8" line to be installed at Seagull to connect Canal Drive to Carolina Beach Avenue North has to be installed before a certificate of occupancy is issued.
29. A statement from DCM either to eliminate the 9.4 as referenced in the memo or disregard it before moving forward with construction and staff's opinion that the project is in general conformity with the Land Use Plan.

**Before calling for a vote, Councilman Johnson said he had a question. He asked, are we saying we are going to require sidewalks, curb, and gutter for this one project when we don't have them any anywhere else on Canal? Councilman Macon said my problem with that is as my problem has always been with it is how are you going to make all that work out. Mayor Pro Tem Gilbert asked, when this went through before it had sidewalks, curb, and gutters on it, right? So we're not discussing sidewalks, curb, and gutters because that's already approved. We're talking about 10 foot height. That's done. We're not taking that out because it was done before. Mr. Harrell said that's correct. You're talking about the 10 feet. There being no further discussion, Mayor Clark called for a vote. MOTION CARRIED UNANIMOUSLY.**

Mayor Clark called for a short recess.

After a short recess, Mayor Clark called the meeting back to order.

#### ***CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 4 BUILDINGS AND BUILDING REGULATIONS SEC. 4.21.2 APPEARANCE STANDARDS***

Mr. Parvin said there are four parts to this amendment and he will go over each one and give some notes on what's been discussed at the Planning and Zoning level for several months.

The first part of the amendment goes over what was in our ordinance in the past, the '84 ordinance dealing with hotel-miniums. There was language in there for a hotel-minimum to have two spaces per unit. With hotels, the spaces have changed over time. Then there was a definition for an efficiency unit. There's still a definition for a hotel-minium in our ordinance, but in 2000 a lot of that was lost for hotel-minium except for the definition.

We're looking at four sections of our ordinance tonight and we'll start with the table of permissible uses. For this, I put a lot of notes from our current Land Use Plan and our future Land Use Plan about the I-1 District. We were looking at allowance of hotel-miniums at the same places as hotels. Hotels are allowed in I-1. We want to take that allowance out and not allow hotel-miniums in I-1 because it says in your statements from your plan that is going to be a by-pass corridor for Lake Park Blvd. and more intense development would not be on Dow Road.

This amendment was denied at Planning and Zoning and moved forward to Town Council by 5-2. One of the concerns with this part of the amendment was P&Z only wanted it in the Central Business District. That is something to consider. Right now we have it for highway business, T-1, MX, and CBD.

We had a lot of discussions about parking. I put a staff note at the bottom. It started out at TRC level when this was first coming about as one space per unit as hotels have now. Then we went up to 1¼ and had some more discussions. Then we went up to 1.35 and limited it to one bedroom units and also limited it to 900 square feet. Then the proposal now was 1.5, still limit it to one bedroom units, and no more than 650 square feet. It got a little more restrictive over the last couple of months at Planning and Zoning level.

The third amendment is the Development Standards for Particular Uses that we have and 12.2 spells out the specific requirements for this type of use. One of them is that you have to have a commercial aspect for the hotel/motel, or hotel-minium. This would be a requirement. It's based similar to what you have at the Marriott. They have 144 rooms and if you times 50 rooms it would be 7,200 square feet of commercial space. I put 7,100 on here. When I went back and looked at their plans, that's about how much they had. If this was approved, that's what you would see there. The actual language reads a minimum of 1,000 square feet or 50 square feet per room. So they would need a commercial aspect and it would give a minimum amount of commercial aspect that they would have to have.

The number of units is 3. At first it wasn't a requirement at all; then when the idea of 900 square feet came up at Planning and Zoning or TRC, we reduced that to 650.

Management - at 1.35 we were at a 30% hotel, 70% hotel-minium and we restricted that down to a 50/50 split, with 50% hotel-minium and 50% hotel.

The final amendment is the definition and we came up with a new definition for hotel. I underlined the part of the definition that Planning and Zoning was discussing, shall provide daily cleaning and linen change for its guests. They were discussing whether we wanted to include that at all because of the enforceability of that part of the definition.

Another discussion was allowance of full size appliances for any of the units. The hotel units would not be allowed to have the full size refrigerators/stoves/dishwashers but the hotel-minium units would.

If you have any questions for me or if you want to go back over anything with me we can.

Mayor Clark asked, of the four items you are bringing did P&Z pick out any one to approve? Mr. Parvin said they did not. A lot of my comments were just some of the highlights of what they were saying. They didn't specifically ask for those changes they just denied the language for the hotel-miniums.

**Mayor Clark made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.**

Mayor Clark reminded people that they did not have to be sworn in and asked if anyone wished to speak.

Russ Maynard began by thanking staff for their many months of hard work and trying to put in a good ordinance for the town to consider. It's a very important concept and I really do appreciate all the hard work.

He stated that the hotel-minium is not a new concept. It's basically just a tool of the hotel community to bring a product in because of the ever increasing cost of prime real estate and the cost of construction.

In Carolina Beach, I can promise you that this concept if it's adopted will bring you a major branded hotel. I have a letter here tonight that I would like to give to each one of you here (he presented a letter to Council from Holiday Inn). We're not talking about a specific project. I do have a CUP in front of the town right now. It could not meet any of the standards that are proposed, so it will be pulled after this meeting tonight.

This letter is from the Holiday Inn group, the Intercontinental Hotel Group. They are one of the largest hotel operators in the world. We have been talking with them for eight months. They have been to the island and have evaluated a site and we'll just stay general here. We have talked with them as staff has made changes to your recommendations on parking, the ratio mix of units to condotel or hotel-minium units, whichever term you would like to use. They are extremely interested in coming to Carolina Beach. This is a very sincere letter from these folks and they are very interested in this beach. This is something I'd like for you to consider very seriously. It's just an example of how this concept can work and how it can bring you a Hilton, a Holiday Inn, or any major hotel.

Jonathon Wolk and I have spent approximately eight months working on this concept. We've had community meetings. We've worked with the Chamber of Commerce. We talked to individual citizens, anyone who would listen on the island. We tried to gain as much input from them on this subject as possible. The majority of the people that we have spoken to at our open meetings have been in full support of this concept. Most people understand that this is just merely a tool for redevelopment in the CBD.

It was just discussed a moment ago by Ed that possibly you would consider this just in the CBD and I think that's a great idea. I think you should limit the new hotels that come to the island to this five or six square block area. I don't think we need any building over 50 feet once you get out of the CBD. That's my personal opinion. I think this will force redevelopment in the CBD and in the boardwalk area.

There are many, many positive aspects that this concept can bring to you. One of them is to help offset the cost of the infrastructure that is needed in this community. We have a pump station that's just about completely shot. We need water and sewer going up Carolina Beach Avenue North. We need it all through the community. This concept will bring in possibly a hotel or two to the island, which would bring you hundreds and hundreds and hundreds of thousands of dollars in revenue just from the impact fees and the agreements that the developers would be held to support this infrastructure improvement for their hotel.

I also think it would help ensure projects like Victory Village and Pop's new restaurant and I think it would absolutely help make these financially successful. I think it would be a good mix to have a hotel or two come into the island into the CBD only and I think that would be the catalyst for your redevelopment.

You have a handful of these hotel-miniums on the island right now. If I understand it, they're non-conforming. I think that's just one more reason to adopt this and get this language cleaned up and get everybody conforming.

Let's talk about this 50/50 mix. I think just from my perspective that's a doable situation and I think that is the way to get you a branded hotel in here. I don't believe you're going to get one any other way very honestly. The cost of land no matter where you go in the CBD is prohibitively expensive and it just doesn't work any other way.

In conclusion, I just like to say thank you for hearing me tonight and thank you for all your help in the last 8 or 10 months on this subject. If I can answer any of your questions right now, I would be happy to. If not, I think there are a few other people that want to speak tonight.

Next to speak was Jonathan Wolk with Center Point Architecture. Mr. Wolk said, we're the architects for the project Russ Maynard brought forth and the hotel-minium issue. Mayor and Council members I want to thank you for the opportunity to speak to you again on what many believe is a critical issue for the revitalization of the CBD.

Hotel-minimums should be allowed in the CBD. All their similar uses are already allowed in the CBD. This is right out of your Table of Permitted Uses – single family, multi-family, bed and breakfast, inns, cabana houses, convents, dormitories, fraternities, sorority houses, as well as motels and hotels and other residential type facilities and then obviously all the associated facilities that go with a hotel or hotel-minimum project such as spa, health club, restaurants, etc. In the proposed case a museum, swimming pools, laundry facilities, laundry mats, meeting facilities. Obviously, the CBD allows for mixed-use commercial, residential, a single family and multi-family. There is a lot of residential use already allowed as well as hotels and transient type facilities in the CBD. We are not asking for anything that's different. In fact, hotel-minimums already exist in Carolina Beach. This is one of the many examples there. I believe that from what we've seen recently with Virginia Avenue a land conservation change based on the map, I would hate to imagine what happens when you inform all the owners of all the Carolina Beach hotel-miniums that they're nonconforming and not allowed to operate and then the enforcement of such an issue. I'm not sure how that would transpire.

But the hotel-minium debate is really about the revitalization of the boardwalk. It has been stated that the boardwalk should only be commercial in retail enterprises. However, the boardwalk has plenty of space available for lease at lease rates well below market value not just for the Wilmington area but for the State of North Carolina. In fact, it can cost as little as \$1,000 a month to rent space on the boardwalk, which means there's not enough activity to support it. We are all in agreement that the Carolina Beach Central Business District is a fantastic location. Furthermore, if rental rates are below market rate and you've got a fantastic location, then it should be a no brainer to have a successful business there. Many businesses have tried and tried and continue to close down or relocate. In just my unscientific estimation probably 70% of the boardwalk is vacant and much of it is available for lease as well as for purchase. So what is missing? I think that this picture helps illustrate what is missing. There's nobody there. We need people; we need customers.

Hotel-miniums are a vehicle to generate more customers and embrace the boardwalk. The Marriott got it started and many people went to the boardwalk in hopes of finding something. I spent many mornings on the boardwalk going to Britt's Donuts. While you're there you are with people from pretty much at least up and down the east coast, if not all over the country and they're all there waiting for Britt's to open in the morning. I'm sure we've all had similar experiences. Other than perhaps

going to Wheel Fun Rentals to get a bike or beachcomber there's really nothing else for them, which is sad and also disappointing to them and what they expected to experience on the boardwalk. Right now, you have an arcade, an occasional donut shop because it's open sporadically, Wheel Fun Rentals, a T-shirt shop, and a couple of bars. The boardwalk needs more and the only thing that will help it more is customers.

For those who are familiar with the show *Heroes* we wish to present hotel-minium heroes, ordinary cities discovering extraordinary possibilities. We looked at a number of projects and just to be brief we looked at the town center at Virginia Beach where they are undergoing a \$500,000,000 multi-phase, mixed-use development located within their business district. It's a mix of residential, apartments, condominiums, office space, retail, hotels, The Sandler Center for the Performing Arts, and a large mix of cafes and restaurants.

Why we fixated on this was the before picture to me struck an uncanny resemblance to the aerial of Carolina Beach as you look at it today with a few buildings but mostly vacant property right on the oceanfront. The other amazing thing is that the picture on the lower left is of the Marriott which is now constructed and some other condominium projects. It's a very similar situation to Carolina Beach; it had a decaying central business district and great oceanfront possibilities. With the construction of those hotels and condominiums came the retail and the restaurants. They now have things like Ruth Chris, California Pizza Kitchen, PF Chang's and a mix of local and national retailers.

Jim Ricketts from the Convention and Visitor's Bureau in Virginia Beach said everything seems to be working and centering now to help our tourism industry. This was referenced when he was asked about new hotels, new shopping opportunities, better restaurants, the town center, and the Virginia Beach amphitheater. Don Maxwell, the Virginia Beach Economic Development Director said because things are planned well and managed well, the future looks really, really good for us. I'm enthused about the next 10 to 20 years. The Virginia Beach Mayor Orberndorf says our business-like approach to this area has served us well to this point and the market's response to our mixed-use strategy in the heart of the central business district has been gratifying. The cornerstone of this redevelopment is the Weston Hotel-Minium. That project is currently under construction.

The Urban Land Institute states because of their size, flexibility, and inherent potential to shape and activate urban space, mixed-use projects offer the public sector very attractive opportunities to create exciting new places. In urban districts, public objectives often involve a desire to enliven or redevelop an area that is underused or needs revitalization. Other objectives may include stimulating the economic development, increasing the local tax base, and creating more friendly development and smarter growth. These are from the people who invented smart growth, the Urban Land Institute. This is out of their mixed-use development handbook.

As we talk about the future of the boardwalk and we look at all the problems affecting the CBD, infrastructure, safety, decay, we ask to use a popular phrase, are you part of the problem or are you part of the solution. Is the Town Council going to stand in the way of a Holiday Inn coming to Carolina Beach? Are you part of the problem or are you part of the solution? To use the jargon from *Heroes*, save the boardwalk and you save Carolina Beach. With the use of the overhead, Mr. Wolk projected an image from a postcard from perhaps the first hey-day of the boardwalk and the noticeable difference in that are the people.

Mayor Clark asked if anyone else would like to speak. We said that I failed to mention earlier that we have a five minute time limit.

Next to speak was Stephen Hughes. I've been associated with the boardwalk area for about the last eight years. One thing that's unique about this town is that everyone has an opinion about what it should be but no one has come up with a way of achieving that. I have sat with Joel and Pat for hours over the last years and in discussions at the fire station, at the Marriott, unending discussions, day after day and no one can come to a solution. We have an opportunity tonight to make a difference, to make a change that no one could achieve by consensus because there will always be different opinions about what we want.

I speak on behalf of the owner of the property adjacent to Russ's project. We are for the project and we hope you can facilitate this by voting in a way that gives the boardwalk an incentive for something positive. After hours and days and months of discussions over years, at this time there is an opportunity and that is the important issue and it lays with you to jump start that district.

Mayor Pro Tem Gilbert asked Steve Harrell how appropriate is it for us to be talking about a project and the Holiday Inn in respect to zoning changes. We're talking about zoning over an entire town. We're not talking about a specific project at a specific location. How appropriate is it for us to consider not considering the other locations that this could actually be put. You can put it anywhere in the Central Business District or you could put it in your mixed-use and a number of other places. Right? Mr. Harrell said yes, sir. I don't think it's inappropriate to speak in generalities as to where a Holiday Inn might locate in the community. I don't see any issue with that at all. There's a lot of latitude when you're talking about a legislative matter and that's what you're talking about.

Dan Denson said he is the co-chair of the Government Affairs Committee of the Pleasure Island Chamber of Commerce. I'm co-chair because I inherited Carolina Beach and not Kure Beach. Speaking from the Chamber perspective, we feel in doing a lot of research on hotel-miniums and condo hotels that this type of business would have a great positive impact on the business community of Carolina Beach. If you look around, we need a shot in the arm. This would have a positive impact.

Speaking about the Holiday Inn and the letter Mr. Maynard gave you from the Holiday Inn, they talked about meeting space. With 15 years experience in running conventions, trade shows, and corporate meetings, I can tell you that those meetings that come into a locale can definitely help the business community. The business community of Carolina Beach, Kure Beach, Pleasure Island as a whole could use a project or hotel-minium like this.

Mayor Clark asked if anyone else would like to speak, and no one came forward.

**Mayor Clark made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

**Councilman Macon made a motion to adopt the land use plan consistency statement for approval: WHEREAS, in accordance with the provisions of North Carolina General Statute 160A-383, the Town Council does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted Land Use Plan and other long range planning documents.**

**I think it is definitely in the public interest. I think the main problem that I heard in discussion was the parking issue because you get a little bit of a parking break. Obviously, that's not an issue because we don't have a parking problem and we just approved a project yesterday without any parking whatsoever.**

I also feel that you can go on the Internet and there are sites that are against motel-miniums and I think there are sites for motel-miniums. I think what you have to do is look at your city, what's important to it, and what it needs and weigh that heavily first. I think this is definitely consistent with where we're headed and what we're looking for in improvements in our town and revitalization in our Central Business District.

Mayor Pro Tem Gilbert asked, if you limit hotel-miniums just to the Central Business District what do you do with Pelican Watch? What do you do with these other non-conforming uses that have been described? I've perused about every coastal community website for zoning and what's devoid in most of those is hotel-minium language. They might have a hotel condominium but there's no definition for it. I've looked at Nags Head and they have excellent language for hotel overlays that allow these things to go in.

My fear is changing zoning on a carte blanche. I think you'll get what a hotel-minium is in Surf City. I met with Todd Rodemocker and he pointed out what will come in and that you can't regulate. You get what you get in a hotel-minium. It isn't branded.

Right now we don't have any height limits on our Central Business District, is that correct? How do you regulate height with a conditional use permit with no standards? Councilman Macon replied it's whatever Council votes on and Mr. Harrell agreed. Mayor Pro Tem Gilbert continued, when you speak to David Owens at the Institute of Government and look at conditions and standards, and if you don't have strong zoning to apply, then basically you can't deny anything. We don't have those standards right now. Is our hotel overlay or a Central Business District overlay going through our Planning and Zoning process? Mr. Parvin said it will go to P&Z tomorrow night. Mayor Pro Tem Gilbert recommended, respecting Joel's motion, that within our Central Business District we have some locations that would be prime for brand hotels but we don't have any standards in place. We don't have any standards that discuss interconnect ability. We don't have any standards that say what the height is and that it's going to connect. I challenge that we create a hotel district within our Central Business District but let's create the standards that will guarantee some connect ability. I think we all know that the Marriott went in and it wasn't that shot in the arm for the boardwalk because it didn't interconnect and there was some negligence with the way it connects. We don't want to repeat that same mistake. If we look at Lake Park right now, you can put a hotel-minium on basically any corner you want in the Central Business District. I'll challenge that you don't have much to do to limit your height other than you don't like one height to the other. My challenge is to go forward with the Central Business District overlay, revisit your language like many other coastal communities, come up with your standards for that overlay that are specific on what you want to see there. I think what you'll see is something very similar to what is projected or what Holiday Inn may or may not do. I don't want the hotel-minium language to be a back door for substandard condominiums in our Central Business District. This isn't going to take six or eight months. We've got a Central Business District overlay that's going through so get the standards together. This is for you Ed. Look at that language in there. We define in this hotel efficiency one room, kitchenette, hotel, hotel units. Instead of breaking our parking down by calling it hotel/motel not condominium, break it down by units. If he is going to build 50% hotel units without kitchens and then he builds suites, define what a suite is. I think we can really take a handle and help shepherd what we want to come through here and not hurt the businessman who has invested a lot of money. I just want to be careful with what we introduce in language to

**this town and that we are not opening a big can of worms. If you want to bookend, then let's put an overlay district on one of your bookends and set standards and let's get it done.**

**Councilman Macon said timing is everything. How long have we messed around with this language? Our staff has been working on this stuff for a year. They have looked at other issues. They've considered and looked at other towns and other languages and this is what they've put before us.**

**Councilman Macon agreed that connect ability was an issue but that's not going to stop us from voting on this tonight. They can now go to work on connect ability for what you're looking for and we can have that in place way before anyone were to get in here for a conditional use permit.**

**Mayor Pro Tem Gilbert said I think the language is too aggressive and too broad.**

**Mayor Clark intervened and said he would like to give other Council members an opportunity to speak.**

**Councilman Johnson said as far as voting on this the way it is presented tonight, I can tell you right now, I can't vote yes on this. Councilman Macon wanted to know his specific problem with it and Mr. Johnson said some of the language in it. Number one when I was on P&Z, P&Z voted to not have the hotel/motel-minium allowed in the CBD. I haven't changed my mind about that yet. Councilman Macon said my point is we can be visionaries or we can be Chicken Little.**

**Councilwoman Efird asked how long are we going to wait to do something for the Central Business District. We've been sitting here for years with no business and no people and everybody is getting tired of us not doing something positive. I think this is a start for this Council to do this. I'm definitely in favor of something for the boardwalk and I think this is the way to go.**

**Councilman Johnson said I am in favor of a major flagship hotel. I am not in favor of a 50/50 condominium/hotel run supposedly as a hotel that's selling units. I want to see a major flagship hotel come in just as bad as anybody with meeting facilities, restaurants, etc.**

**Mayor Pro Tem Gilbert said the Marriott is up 12% this year. There are a lot of businesses hanging in there that are up quite a bit. The argument of putting a bookend in there - is there any guarantee? Are they going to infuse any money to raise the boardwalk? There are a number of unknowns out there. I think you look down Lake Park Blvd at all the new businesses going in and I think maybe that's the core and maybe it will travel over there. Right now we're up 12% and we can't put fingers on why the boardwalk is the way it is.**

**Councilman Macon remarked that he didn't hear one person get up and say this isn't a good idea.**

**Mr. Owens commented this is a conditional use so some of those interconnect ability issues and other issues can be addressed in the CUP process although it would be nice to have it more defined.**

**Another comment from Councilman Macon was if this is such a sensitive issue where's the outpouring of people that are against this language? Mayor Pro Tem Gilbert said Planning and Zoning denied this 5-2, right? Mr. Harrell's response was yes, sir.**

**Mayor Clark stated I want a hotel on the other end of the boardwalk, which I have said many times. That's going to be another kick start for that area. I really don't want to see residential in the Central Business District. Planning and Zoning a few years ago denied it 100% and I have respect for those people that are on Planning and Zoning. This time they voted 5-2 against it. I don't feel our Planning and Zoning people are less visionary people than anyone else we have.**

**Councilman Macon said they did last night on the map, which Mayor Clark said that's correct because we had a bad map. Councilman Macon agreed that it was a bad map. Mayor Clark said it was drawn up wrong.**

**Since there was no more discussion, Mayor Clark called for a vote. MOTION DENIED (2-3 WITH MAYOR CLARK, MAYOR PRO TEM GILBERT AND COUNCILMAN JOHNSON VOTING NO.)**

***CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 4 BUILDINGS AND BUILDING REGULATIONS SEC. 4.21.2 APPEARANCE STANDARDS***

Mr. Parvin said staff has been working on this with the building inspector for roof pitch and eave overhang.

Under Section 4.21.2 Appearance Standards of the town code, we are proposing changing the roof pitch for all new construction with a primary roof pitch of less than 6/12 of vertical rise for every 12 inches of horizontal distance building height shall be reduced in accordance with the table provided in your memo as long as it doesn't go below the 4/12 roof pitch. For 6/12 or greater, you would be allowed your maximum height for the area that you're in. For a 5/12, you would have to come down 11/2 feet. For a 4/12, you would have to come down 3 feet. So it is 11/2 feet for the two scaled down levels of roof pitch. You would not be able to go below a 4/12 but you would be able to go all the way down to a flat but you would lose 9 feet or essentially one floor.

The additional change is to the minimum eave and this is recommended by the building inspector. It would be coming from a 15 inch eave going to a 12 inch eave excluding gutters. This change is not to the zoning ordinance but to the town code under Section 4.21.2 in your Appearance Standards.

Mr. Harrell commented that this discussion of the change in the roof pitch emanated from the discussion of the maximum height limits that you'll be discussing in your next public hearing with regards to the residential areas. It really came out of a discussion of preventing an additional floor. For purposes of process, P&Z chose to hold the public hearing on this item. The next step would be to hold their discussion and decision on this item after they held the public hearing and talked about the next item. I don't know whether you want to go that route or not.

Mayor Pro Tem Gilbert asked, did they both get unanimous votes? Mr. Parvin said this is part of your town code so this doesn't require your consistency statement but Planning and Zoning unanimously recommended this as well as the other. Mr. Owens said if you were to approve this, then you would be applying it to 50 foot buildings. If you change your height in the next discussion, you're applying it to

either a 40 or 45 foot building. Mr. Parvin said this can act independently of the other ordinance. Mayor Pro Tem Gilbert stated we're not dependent on either one first or second, and Mr. Harrell said that is correct.

**Mayor Clark made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.**

There being no public comments, **Mayor Pro Tem Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

**After some discussion, it was decided to hear the next item and then come back to this item and have an interrelated discussion.**

***CONSIDER AMENDING ARTICLE 3.7 ZONING DISTRICTS DESCRIBED; 3.9(7) HEIGHT REGULATIONS; 8.6 BUFFER YARD AND LANDSCAPING; AND 3.9.1 DIMENSIONAL STANDARDS FOR LOTS & PRINCIPLE STRUCTURES FOR A RESIDENTIAL & COMMERCIAL OVERLAY***

Mr. Parvin said the P&Z Commission held a public hearing on the following language at its November 29th meeting and recommended approval to the Town Council. Although all language was discussed and approved by P&Z, the actual overlay districts located in R-1B, R-1, MH and I-1 are considered map amendments and require affected and adjacent property owner notification, which has been done by mailings for a public hearing set for tomorrow night. This public hearing will also include a discussion of a commercial overlay district, as we discussed earlier, for the CBD boardwalk area, and mailings to affected and adjacent property owners in this area have also been sent out. These residential and commercial overlay districts will be presented at your January 9<sup>th</sup> meeting.

The language under consideration tonight 3.9 (d) and Table 3.9.0 establishes standards for roof pitch; 8.6 establishes additional buffer yard requirements; and 3.9.1 establishes a 40' height limit for all of the R-3 zoning district and 45' for the R-2. These amendments are not considered "map" amendments therefore they can be adopted tonight by Town Council.

The first amendment will be under 3.9 and it will be 3.9 (d). This is the language we were looking at a second ago that would go into town code and essentially it will go into this part too for the roof pitch. You have your 6/12 at no reduction; your 5/12, you would have a foot and a half reduction; your 4/12, 3 foot reduction in height; and your flat roof a 9 foot reduction

The second change was 8.6 your buffer yard requirements. We changed the side and rear yard - that abuts a residential use or district shall provide for a 6 foot fence with 80% capacity. It was an earlier requirement in the Type B. Now it's a requirement for any time you have a buffer yard you would have to have that fence if you are abutting the residential user district.

Also for Type E, which is what's in your Central Business District, if you are abutting a residential user district you would have to have the Type A buffer. What sparked this was the Harbor View Project. They had a 10 foot setback because it abutted T-1. You have to have the same setback as T-1. In addition to that we are putting a requirement for a 5 foot Type A buffer, which Harbor View provided. They provided a walkway around their building and a Type A buffer. It wasn't a requirement, so we put that requirement into your landscaping ordinance.

The final amendment to consider tonight is the changes for the entire R-2 district to be 45 feet versus 50 feet and the entire R-3 district to 40 feet versus 50 feet. The overlay will be under consideration for your January meeting.

**Mayor Clark made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.**

There being no public comments, **Mayor Clark made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

**Since staff had their public hearing tonight on this text amendment and Council is not obligated to make a decision tonight, Council requested staff to re-advertise with more specific language regarding this and the previous text amendment and they will consider these two items at their January 9, 2006 Council meeting. It was also requested when re-advertising to have a map that will be clearly readable.**

***CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 12.2 DEVELOPMENT STANDARDS FOR PARTICULAR USES AND ARTICLE 23 TO ESTABLISH STANDARDS FOR TEMPORARY STORAGE CONTAINERS (RECOMMEND TABLING ITEM TO JANUARY 9, 2007)***

**Mayor Clark made a motion to table the request to consider amending the Zoning Ordinance, Article 12.2 Development Standards for Particular Uses and Article 23 to Establish Standards for Temporary Storage Containers to January 9, 2007 at 7:30 p.m. or soon thereafter. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 11 SIGN AND HANDBILL REGULATIONS, SECTION 11.4 PERMITTED SIGNS (RECOMMEND TABLING ITEM TO JANUARY 9, 2007)***

**Mayor Clark made a motion to table the request to consider amending the Zoning Ordinance, Article 11 Sign and Handbill Regulations, Section 11.4 Permitted Signs to January 9, 2007 at 7:30 p.m. or soon thereafter. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR SEA SIDE PLANNED UNIT DEVELOPMENT FOR 4-SINGLE FAMILY HOMES AT 1704, 1708, 1710 AND 1710A CAROLINA BEACH AVENUE NORTH (APPLICANT REQUESTS ITEM BE TABLED TO FEBRUARY 13, 2007)***

**Upon the applicant's request, the request for a conditional use permit for Sea Side Planned Unit Development for 4-single family homes at 1704, 1708, 1710 and 1710A Carolina Beach Avenue North was tabled to February 13, 2007.**

**CONSIDER AMENDING ARTICLE 8.6 BUFFER YARD LANDSCAPING TO ADDRESS MINIMUM PLANT SIZES (THIS ITEM IS STILL AT P&Z LEVEL – RECOMMEND TABLING TO JANUARY 9, 2007)**

Mayor Clark made a motion to table the request to consider amending Article 8.6 Buffer Yard Landscaping to Address Minimum Plant Sizes to January 9, 2007 at 7:30 p.m. or soon thereafter. **MOTION CARRIED UNANIMOUSLY.**

**CONSIDER REPEALING ARTICLE VII LANDSCAPING AND VEGETATION PRESERVATION 12-346 THROUGH 12-358 (THIS ITEM IS STILL AT P&Z LEVEL – RECOMMEND TABLING TO JANUARY 9, 2007)**

Mayor Clark made a motion to table the request to consider repealing Article VII Landscaping and Vegetation Preservation 12-346 through 12-358 to January 9, 2007 at 7:30 p.m. or soon thereafter. **MOTION CARRIED UNANIMOUSLY.**

**REQUEST FOR CLOSED SESSION (IN COMPLIANCE WITH G.S. 143-318.11(a)(3) ATTORNEY/CLIENT PRIVILEGED INFORMATION, (5) REAL ESTATE AND (6) PERSONNEL)**

Mayor Clark made a motion to go into closed session in compliance with G.S. 143-318.11(a)(3) attorney/client privileged information, (5) real estate and (6) personnel. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Mayor Clark to return to open session. **MOTION CARRIED UNANIMOUSLY.** Mayor Clark announced that no action was taken in closed session.

**ADJOURNMENT**

Councilwoman Efird made a motion to adjourn. **MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted,

Lynn N. Prusa  
Town Clerk

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