

Joel Macon
Mayor

Alan Gilbert
Councilman

Jerry Johnson
Councilman



Dan Wilcox
Mayor Pro Tem

Pat Efird
Councilwoman

Timothy Owens
Town Manager

TOWN OF CAROLINA BEACH
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Planning & Zoning Commission Minutes

January 10, 2008

7:00 P.M.

ITEM #1 Call to Order & Roll Call

7:05pm

Chairman Keith calls the meeting to order.

Commissioners Present: 5

John Keith
Mike Kopitopoulos
Betsy McQuillen
Jim Miller
Sarah Efird

Commissioners Absent: 2

Jim Rees
Bill Parker

Staff Present: Gary Ferguson – Planning Director, Ed Parvin – Senior Planner, Jeremy Hardison – Zoning Administrator, and Karen C. Middleton – Secretary

Special Presentation:

Mr. Ed Parvin presents a certificate of appreciation plaque for Chairman John Keith, who has served on the commission since 1984. Tonight is his last meeting on the commission and he will go on to serve on the Board of Adjustment.

ITEM #2 Approval of the Minutes – December 13, 2007

7:09pm

Ms. McQuillen moves to approve the minutes. Ms. Efird seconds. All ayes. **Motion carries unanimously (5 to 0).**

ITEM #3 New Business Discussion: Consider the road closure for a portion of Blanche Ave

Applicant: The Clark Group

7:10pm

Jeremy Hardison presents his memo

The proposal to close a 50 X 115 portion of the southern end of Blanch Ave was heard at the December 17, 2007 Technical Review Committee meeting. The following conclusions were drawn if the right-of-way is closed:

Planning –

1. If the road closure is approved the applicant plans to reconfigure 5 existing lots to 7 lots.

2. After Town Council approval, the applicant will be required to apply for a Minor Subdivision to reconfigure the lots
3. The pool would need a Conditional Use Permit before the applicant could subdivide the lot the pool is on.

Operations –

1. Currently they are utilities within the right-of-way and the town would need to obtain a 30’ access and utility easement.

There is no current access use of the right-of-way. The southern end of Blanch Ave has not been improved and currently abuts vacant lots.

1. The applicant owns the land adjoining the Right-of-way. The land is divided as equitably as possible, generally by way of a ‘50/50’ split between the adjoining land owners.
2. If the road closure is approved 801 Blanch Ave would need to be reconfigured to maintain access to the lot.

Commission Questions

Ms. McQuillen understands that there are currently utilities running under the road; Mr. Hardison confirms, adding that the Operations Department wants a 30ft access to remain for the utility lines. No building or structures can be built within that access easement. Mr. Keith understands that whoever owns the lot will have a driveway over the access; Mr. Hardison says they could, but with a condition that if the town needs to access the utility lines, the owner may be without a driveway while work was being done. Ms. McQuillen asks if the utility lines must stay there; Mr. Hardison answers that he does not believe they can be cut off or moved. Mr. Hardison tells the commission they are to make a recommendation, but if they so choose, they can hold off and make the recommendation next month as Council will not hold their hearing until March. The commissioners believe they can do it tonight.

Recommendation

Ms. McQuillen makes a recommendation that Town Council approve this road closure, and that it is consistent with the Land Use Plan. Mr. Kopitopoulos seconds. All ayes. **Recommendation carries unanimously (5 to 0).**

ITEM #4 **Public Hearing:** Consider amending the Zoning Ordinance: Article 7.2 Off-street loading requirements for commercial districts outside the CBD

Applicant: Town of Carolina Beach

7:16pm

Gary Ferguson presents his memo

I. Issue Overview:

At the previous meeting of the Planning and Zoning Commission, it was recommended that Town Council amend the Zoning Ordinance to provide for the waiver of off-street loading requirements for businesses within the Central Business District. At the conclusion of this recommendation, it was determined that the loading requirement in other commercial districts needs to be addressed as well.

The current ordinance now applies to all new buildings and uses, change of ownership and uses, expansions, additions and renovations to existing structures and uses. Off-street Loading Requirements are established base on two (2) criteria: If the gross square footage of the building is greater than 5,000 and if the use “handles goods in quantity” or not. The entire loading ordinance as it currently reads can be found as the attached “Exhibit A.”

The ordinance now requires businesses to provide a loading space if the gross floor area of the establishment is greater than 5,000 square feet. Currently there is no explicit language allowing for the waiver of a loading space, while there is the provision for a waiver for parking requirements. In the past,

the ordinance has been overlooked and many of the businesses in the Town of Carolina Beach operate without a loading space.

With the continued growth and development of Carolina Beach, planning for a loading space as well as the issues associated with a loading space is extremely important as it relates to:

- Traffic congestion
- Loading and Unloading time
- Noise
- Spaces that do not accommodate the size of truck being used

II. Options for Commercial Districts outside the CBD:

The planning staff has identified issues with loading in districts outside of the CBD. The planning staff has identified two different options to address loading throughout the town for review by the Planning and Zoning Commission.

Option 1: This option would increase the minimum gross square footage from 5,000 square feet to 15,000 square feet for uses handling goods in quantity and those not handling goods in quantity. Additionally there would be a provision of a loading plan to be reviewed by the Director of Planning or Town Council, depending on the application. The following highlighted sections are how the language would be changed to reflect this option.

(c) *Minimum off-street loading requirements.*

(1) *Uses handling goods in quantity.* Uses which normally handle large quantities of goods including, but not limited to, industrial plants, wholesale establishments, storage warehouses, freight terminals, hospitals or sanitariums, and retail sales establishments shall provide off-street loading facilities in the following amounts.

TABLE INSET:

Gross Floor Area of Establishment in Square Feet	Required Number of Loading Spaces
Less than 15,000	Must submit a loading plan
15,000 to 24,999	1
25,000 to 39,999	2
40,000 to 100,000	3

For each additional one hundred thousand (100,000) square feet of gross floor area, at least one (1) additional loading space shall be provided.

(2) *Uses not handling goods in quantity.* Commercial establishments which do not handle large quantities of goods including, but not limited to, office buildings, restaurants, auditoriums, convention halls, coliseums, exhibition halls, funeral homes, hotels and motels shall provide off-street loading facilities in the following amounts.

TABLE INSET:

Gross Floor Area of Establishment in Square Feet	Required Number of Loading Spaces
Less than 15,000	Must submit a loading plan*
15,000 to 49,999	1
50,000 to 100,000	2

For each additional one hundred thousand (100,000) square feet of gross floor area, at least one (1) additional loading space shall be provided.

(3) *Waiver of Loading requirements in the Central Business District and for all other commercial districts.* Where properties are located within the CBD, Off-Street loading requirements may be waived by the decision making authority (Town Council or Planning Department) provided a loading space plan is submitted by the applicant and approved by the Director of Planning or his/her designee. For all other commercial zoning districts where buildings are less than 15,000 sq ft, the loading requirements may be waived based on approval of a loading plan. Loading plans submitted by applicants in all districts shall ~~that~~ addresses the following:

- Time loading will take place
- Approximate size of truck used for loading
- Duration of loading period, and
- Location of the loading area

Option 2: This option would simply require the submission of a loading plan prior to review by the Technical Review Committee. Pending approval of said loading plan, the loading space may be waived.

(m) *Waiver of Loading Requirement.* Where properties are located within the following districts: Tourist (T-1), Marina Business (MB – 1), Mixed Use (MX), Neighborhood Business (NB), and Highway Business (HB), the requirement for a loading space may be waived pending approval of a loading plan submitted to the decision making authority.

Off-Street loading requirements may be waived by the decision making authority (Town Council or Planning Department) provided a loading space plan is submitted by the applicant and approved by the Director of Planning or his/her designee that addresses the following:

- Time loading will take place
- Approximate size of truck used for loading
- Duration of loading period, and
- Location of the loading area

III. Staff Recommendations:

After review of the available options, the Planning Staff recommends Option 1. This option is less restrictive than the current ordinance, but will help the town come more in line with how businesses are operating within the town. Waiving the requirement for any business regardless of size could create future problems with zoning within the town; therefore, staff feels Option 1 is the best choice.

IV. Staff Land Use Consistency Analysis:

This amendment is in general conformity with the LUP. The following are policies from the LUP that reflect the conformity:

- 22) The Town shall support a growth pattern which reinforces the community's existing commercial areas and protects existing residential areas from inappropriately designed and scaled nonresidential development. The Town shall promote and encourage rules that ensure the compact, pedestrian oriented nature of the Town's historic center—the boardwalk/ area and boat basin area—shall receive special diligence in this regard.
- 86) (A) The Town of Carolina Beach shall work to diversify the local economy while at the same time protecting the natural and man made environment and improving the area as a more attractive community in which to work, live and play.
(B) New economic development and redevelopment of the Boardwalk and Marina Area shall seek to preserve the rich heritage so much enjoyed by visitors and residents of the Town of Carolina Beach.
(C) The Town shall promote new economic development that secures the pedestrian nature of this area and promotes family-oriented businesses, entertainment, and a resort market niche.
(D) The Town shall not approve any development or redevelopment that would degrade the small town character of the Town's Traditional Single Family Districts.

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(E) Vested Rights Pursuant to N. C. Gen. Stat. § 160A-385.1. The Town recognizes that projects have been approved by Town Council under the provisions of Article 14 (“Conditional Use Permit”) of the Town’s Zoning Ordinance with a Site Specific Development Plan and have been granted Vested Rights under the Town’s Ordinances and the provisions of N. C. Gen. Stat. § 160A-385.1. In recognition of the Town’s obligations under N. C. Gen. Stat. § 160A-385.1, these projects shall not be deemed in conflict with the Town’s land use plan provided that the projects are constructed during the applicable vested rights period and pursuant to N. C. Gen. Stat. § 160A 385.1.

- 87) (A) Carolina Beach shall continue to work with merchants and property owners on efforts to revitalize the Central Business and Boardwalk area.
(B) Town officials will also seek grants and/or low interest State or federal loans to revitalize the Boardwalk area.
(C) Redevelopment of the Boardwalk shall seek to preserve the rich heritage so much enjoyed by visitors and residents of the Town of Carolina Beach.
(D) The Town shall promote new economic development and redevelopment of the Boardwalk that secures the pedestrian nature of this area and promote family-oriented businesses, entertainment and amusements.

PLANNING AND ZONING:

APPROVAL

Recommend approval of the proposed amendment to advise that it is consistent with the land use plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

DENIAL

Recommend denial of the proposed amendment, to advise that it is inconsistent with the land use plan or other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

TOWN COUNCIL:

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.

DENIAL

Motion to deny the zoning request based on inconsistencies with the goals and objectives of the adopted land use plan and/or other long range planning documents.

COMPLIANCE WITH N.C. GENERAL STATUTES: Yes

EXHIBIT A: CURRENT ZONING ORDINANCE

Sec. 7.2. Off-street loading requirements.

(a) *Purpose.* The purpose of this section is to provide off-street loading standards which will lessen congestion in the streets and promote safe and unrestricted traffic flow and to provide for the safe and efficient use of property to serve the loading and unloading needs of commercial facilities.

(b) *Applicability.* The off-street loading standards contained herein shall apply to all new buildings and uses, change of ownership and uses, and expansions, additions and renovations to existing structures and uses.

(c) *Minimum off-street loading requirements.*

(1) *Uses handling goods in quantity.* Uses which normally handle large quantities of goods including, but not limited to, industrial plants, wholesale establishments, storage warehouses, freight terminals, hospitals or sanitariums, and retail sales establishments shall provide off-street loading facilities in the following amounts.

TABLE INSET:

Gross Floor Area of Establishment in Square Feet	Required Number of Loading Spaces
Less than 5,000	N/A
5,000 to 9,999	1
10,000 to 24,999	2
25,000 to 39,999	3
40,000 to 100,000	4

For each additional one hundred thousand (100,000) square feet of gross floor area, at least one (1) additional loading space shall be provided.

(2) *Uses not handling goods in quantity.* Commercial establishments which do not handle large quantities of goods including, but not limited to, office buildings, restaurants, auditoriums, convention halls, coliseums, exhibition halls, funeral homes, hotels and motels shall provide off-street loading facilities in the following amounts.

TABLE INSET:

Gross Floor Area of Establishment in Square Feet	Required Number of Loading Spaces
Less than 5,000	N/A
5,000 to 49,999	1
50,000 to 100,000	2

For each additional one hundred thousand (100,000) square feet of gross floor area, at least one (1) additional loading space shall be provided.

(d) *Location of off-street loading space.* All required loading spaces shall be located on the same lot and shall have the same zoning as the use it is to serve. No off-street loading space shall be located in a required front yard or within a triangular sight distance. Loading facilities shall be constructed so that all maneuvering will take place entirely within the property lines of the facility. Interior off-street loading spaces may be located inside the structure it serves, provided the other provisions of this section, such as size and access, are met.

(e) *Size of off-street loading space.* Unless otherwise specified, an off-street loading space shall be twelve (12) feet in width by forty-five (45) feet in length, exclusive of aisles and maneuvering space, and shall have a vertical clearance of at least fifteen (15) feet.

(f) *Surfacing of off-street loading space.* All off-street loading spaces shall be paved with asphalt or concrete material, or with alternative paving material (i.e., concrete pavers, brick, "turf stone," or similar material) determined to exhibit equivalent wear resistance and load-bearing characteristics as asphalt or concrete, of a type and thickness capable of carrying, without damage, the heaviest vehicle loads reasonably anticipated on such surface, as approved by the public works director.

(g) *Repair and service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities, except emergency repair service necessary to relocate a vehicle to a normal repair facility.

(h) *Utilization.* Off-street loading space shall not be used to satisfy the space requirements for off-street parking facilities or portions thereof, nor vice versa.

(i) *Similar use application.* The director of planning/development shall apply the off-street loading requirements for the most similar use listed herein to an unspecified use.

(j) *Access.* Each off-street loading space shall be provided with unobstructed ingress and egress to a public or private street.

(k) *Information required for building permits and business privilege license.* Each application for a building permit and/or business privilege license shall include information as to the location, design and construction of required off-street loading in compliance with this section and other requirements of the town. The information shall be in sufficient detail to enable the director of planning/development and the public works director to determine whether or not the requirements of the ordinance have been met.

(l) *Voiding of certificate of compliance and privilege license.* The certificate of compliance and/or business privilege license for the use of any building, structure, or land where off-street loading is required shall be withheld until the provisions of this article are complied with. Failure to comply with the requirements of this article shall cause any certificate of compliance and/or business privilege license previously issued to become null and void immediately.
(Ord. No. 02-503, 6-18-02)

Commission Questions

None

Public Hearing

Ms. McQuillen moves to open public hearing. Mr. Kopitopoulos seconds. All ayes.

No one speaks.

Ms. McQuillen moves to close public hearing. Ms. Efird seconds.

Public Hearing Closed

Commission Discussion

Ms. McQuillen thinks the waiver is fine, and that it is a good idea to have the waiver in the plan to maintain control as other factors change. Thus, she favors Option #1. Mr. Keith says Option 1 provides leniency and best suits the current situation.

Motion

Ms. McQuillen moves to recommend approval of this text amendment, specifically Option #1, and that it is consistent with the Land Use Plan. Ms. Efird seconds. All ayes. **Motion carries unanimously (5 to 0).**

ITEM #5 **Public Hearing:** Consider amending the Zoning Ordinance: Article 3 Zoning District Regulations to reduce the rear yard setback in the Highway Business District when the proposed commercial use abuts any commercial district

Applicant: Town of Carolina Beach

7:22pm

Ed Parvin presents his memo

The Problem:

Recent events at the December BOA meeting led staff to research the intent of increased rear yard setbacks in HB. What staff found was the change to the rear setbacks for all of Highway Business does not follow the original intent for increasing rear yard setbacks in the zone. The Town adopted a new zoning ordinance in 2000 that changed the setbacks in HB from 15' on the rear to 20'. This setback increase was recommended and approved based on HB abutting residential uses (see Exhibit A).

Issues behind the problem:

A variance request was submitted to and heard by the Board of Adjustment on December 17 meeting. The applicant has an existing building that was conforming to the 15' setback. The applicant proposed to expand the existing structure keeping the same 15' setback. The BOA found the applicant did not meet the requirement for a variance, but did believe the Town should review the setbacks to determine if a text change was needed.

Staff is providing three options for your consideration:

Option 1: Status Quo - Maintain existing setbacks in HB. The 20' setback it was intended to provide an additional buffer for residential uses. Fifteen feet is more restrictive than other district requirements and should be adequate between commercial uses in the HB zone.

Option 2: Return to 15' as the rear setback: In 2000 there was concern over the HB district abutting residential districts to the rear. This concern led to the creation of the 20' setback. Removing 5 feet could cause conflicts in this transition area between HB and residential zones.

Option 3: Allow for a 15' rear setback and require type 1, 2, or 3 construction where HB abuts commercial areas. Maintain 20' where HB abuts residential areas. This maintains the intent of what was trying to be accomplished in 2000, and provides relief for commercial uses surrounded by other commercial activities.

Staff Recommendations:

After review of the area (see Exhibit B) and the original intent of the setback increase in 2000, planning staff recommends the following text revision to the table of permissible uses consistent with option 3:

Sec. 3.9-1. Dimensional standards for lots and principal structures.

Dimensional Standards for Lots and Principal Structures, Other Districts

TABLE INSET:

Zoning District	Primary Permitted Uses	Min. Lot Size	Min. Lot Width	Min. Front Yard	Min. Rear Yard	Min. Side Yards	Max. Density	Max. Height	Max. Lot Coverage
<i>CBD</i>	Commercial Uses and Services, Entertainment	None	None	None	None, or same as abutting residential use or district.	None, or same as abutting residential use or district.	NA	50 ft.	None
<i>NB</i>	Neighborhood Goods and Services	5,000 sq. ft.	50 ft.	20 ft.	10 ft.	7.5 ft.	8.7 units/acre	50 ft. 2	40%
<i>HB</i>	Highway Commercial	10,000 sq. ft.	100 ft.	30 ft.	20 ft. 15 ft. , or: 1. 20 ft. if abutting a residential district 2. 20 ft. if construction built as other than type I, II, or III.	10 ft.	NA	50 ft.	60%
<i>MB</i>	Water-Oriented Businesses, Single-Family/Two-Family	10,000 sq. ft.	100 ft.	30 ft.	10 ft.	10 ft.	NA	50 ft. 2	40%
<i>T-1</i>	Hotels and Motels 15 units or less Greater than 15 units Restaurants/Businesses Single/Multi-Family	20,000 sq. ft. 25,000 sq. ft. 6,000 sq. ft. 6,000 sq. ft.	100 ft. 50 ft. 50 ft.	20 ft.	10 ft 3		32 units/acre 60 units/acre 29/acre	50 ft. 2	40%
<i>I-1</i>	Industrial	None. (Min. district size: 5 acres)	None	30 ft. 3	None. *20 ft. if lot line abuts a residential lot or use. 3	None *20 ft. if lot line abuts a residential lot or use. 3	None	50 ft. 2	None
<i>HOD</i>	See underlying districts for use and dimensional requirements	N/A	N/A	N/A	N/A	N/A	N/A	45 ft.	N/A

Table Footnotes:

1. Portions of this district may be located in an Overlay District as shown on the town's official zoning map and listed as part of Section 3.9.1. Maximum height of this district may be different than listed.
2. See Article 3.9(9) Yard Requirements for structures exceeding maximum height regulations.
3. Front yard setback is fifty (50) feet if abutting a major thoroughfare.
4. In this district, the standard fifty (50) foot building limitation may be exceeded for sprinklered structure and maximum building height shall be solely based on Conditional Use Permit Review. (Ord. No. 00-436, 10-10-00; Ord. No. 02-523, 11-12-02; Ord. No. 04-558, 7-13-04; Ord. No. 04-573, 11-9-04; Ord. No. 06-634, 5-9-06; Ord. No. 06-643, 6-13-06; Ord. No. 07-664, 1-9-07; Ord. No. 07-673, 1-9-07)

LONG RANGE PLAN CONSISTENCY

TECHNICAL REVIEW COMMITTEE

TRC recommends approval of the text amendment and finds the proposal to be generally consistent with the land use plan and other long range planning documents.

Supportive Policies:

- 22 The Town shall support a growth pattern which reinforces the community's existing commercial areas and protects existing residential areas from inappropriately designed and scaled non-residential development. The Town shall promote and encourage rules that ensure the compact, pedestrian oriented nature of the Town's historic center—the boardwalk/ area and boat basin area—shall receive special diligence in this regard.

Policy 22 – Growth Pattern: Potential neutral-negative impact on natural habitat as commercial and residential development occurs.

Mitigation Measures: Follow natural resource protection policies 35 – 43 which require planning and consideration in achieving the least environmental impact during development. Enforce the Town Zoning and Landscape Ordinance provisions for vegetation and tree cover preservation and replacement.

- 27 The Town will encourage new and expanding businesses that provide goods, services, and family oriented entertainment to year round residents and visitors. Examples include appropriately scaled and designed grocery stores, drug stores, restaurants, and entertainment.

Policy 27 – Promotion of Business: Potential neutral-negative impact on natural habitat as commercial development occurs. Potential neutral-negative impact by increasing infrastructure demand as a result of commercial construction. Potential neutral-negative impact by increasing water quality degradation due to stormwater runoff from impervious surfaces as a result of commercial construction and use.

Mitigation Measures: Follow natural resource protection policies 35 – 43 and 79 -81 which require planning and consideration in achieving the least environmental impact during development and stormwater runoff standards. Follow infrastructure carrying capacity policies 62, 63 and 66 which call for upgrades in water and sewer capacity as needed as development increases.

TRC comments: Although the reduction of setback will allow for commercial buildings to be built closer together, the overall lot coverage requirements will be maintain. No additional impacts on stormwater or natural resources are anticipated. Fire concerns for structures built closer together was address by limiting construction types to type I, II or III, preventing heavy timber or wood structures being built in HB with a 15' rear yard.

PLANNING AND ZONING:

APPROVAL

Recommend approval of the proposed amendment to advise that it is consistent with the land use plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

DENIAL

Recommend denial of the proposed amendment, to advise that it is inconsistent with the land use plan or other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

COMPLIANCE WITH N.C. GENERAL STATUTES: Yes

EXHIBIT A: Except from December 7, 1999 Town Council public hearing on “the proposed changes to the zoning ordinance and zoning map”:

Mr. Slaughter asked about the buffer zone between the I-IB zone and the R-1 zone. Mr. Harris said there are 100+ uses, but in concept the HB zone is the heaviest district other than industrial zone and when you

have that zone district abutting a residential neighborhood there are bound to be conflicts and so the MX zone or transition zone are a set of proposed uses that would soften the interface. Mr. Slaughter specifically asked about the dead-end of Winner Avenue, where the HB abuts the R-1, if that will be a MX zone in the future. The planners said that this is not a proposed MX zone.

Commission Questions

Ms. McQuillen, while looking at the overhead which displays the highlighted parcels that would now have a 15ft rear setback, points out that there is some pretty good distance between the property structures on the side streets. She says the side setbacks are 10ft so even if they are reduced by 5ft then it would be well-covered. Mr. Parvin says that staff looked into that, too, and with exception of the I-1 other districts have setbacks of 10ft, and that 20ft and 15ft is the most – but probably justified as they are the more intense uses.

Public Hearing

Mr. Kopitopoulos moves to open public hearing. Ms. Efird seconds. All ayes.

Cynthia Remahl, 1506 Canal Dr – wonders if it is possible to consider the reduction even further, being more uniform with the other commercial districts with the 10ft setback. Mr. Ferguson says at the TRC meeting the issue was how the town might mitigate the effect of buildings being too close to one another from a fire standpoint. The fire department felt 15ft was adequate, but they really preferred 20ft, keeping it the way it is. There also needs to be an adequate buffer between residential and commercial. Mr. Ferguson acknowledges that the HB is a more restrictive zone, but there is the safety factor. Ms. Remahl argues that the HB is the main thoroughfare in and off the beach, and there are questions as to what will happen if it is too prohibitive to build and to continue to grow, given the land cost. Mr. Ferguson says that the front yards can be used, as they are generally used for parking in the HB, so there is a benefit of using the front yard setback of 30ft. Ms. Remahl says she owns the lot at 711 N Lake Park Blvd, and without the ability to build on the lot, she cannot get enough parking space. She adds that someone at the BOA meeting said the standard setback is 0ft for commercial to commercial.

Mr. Kopitopoulos moves to close public hearing. Ms. Efird seconds. All ayes.

Public Hearing Closed

Commission Discussion

Ms. McQuillen says her initial concern was about the fire safety issue and about the type of construction. She does not mind the 15ft, but would not want anything lesser, with exception to those on the side streets who already are at 10ft. Mr. Parvin says that Wilmington has looked at pushing the commercial buildings forward and putting the parking in the back in its commercial districts; this may be something Carolina Beach considers in the future. He is hesitant to go less than 15ft, but perhaps the rear and front could be altered in the future. Ms. McQuillen says the streetscape would be much neater if the parking was moved to the rear, and the loading zones may be alleviated as well. Mr. Ferguson says this idea gives more of an urban look and the newly developed master plan reflects some of those values. Ms. Efird and Ms. McQuillen like Option #3. Mr. Keith thinks Option #3 fits in well, gives versatility, and protects residential areas.

Motion

Mr. Kopitopoulos moves to recommend approval of this text amendment, specifically Option #3, and that it is consistent with the Land Use Plan. Ms. McQuillen seconds. All ayes. **Motion carries unanimously (5 to 0).**

Ed Parvin presents his memo

The Problem

The current wording of our ordinance is very lenient on amount of attached signage allowed, but very restrictive on where they may be place and the number allowed. The goal of this text change is to analyze a new approach for issuing attached signage.

Issues behind the problem

- Although a large area is allocated to attached signage, they are limited to one per structure with a few exceptions for corner lots and double frontage lots.
- In addition, signs are limited to one per structure, which fails to address structures with more than one business such as shopping centers or strip malls.
- Very few businesses are interested in creating one sign that covers 25% of their building. Most businesses would prefer having some flexibility in putting up signage. For example, they may want one sign stating their business name while another sign states services rendered, hours of operation, pictures of something sold or represented by the business, etc.

Alternatives

Option 1: Status Quo

This option has proven to cause problems with implementation. The ordinance allows for one sign at 25% which for the majority of structures is unreasonable. Many businesses should be excluded from being allowed an attached sign at all if a strict interpretation of the code is taken. Planning staff does not suggest keeping this language as it is difficult to decipher the intent of the verbiage.

- c. Signs not to exceed twenty-five (25) percent of front building face as measured from ground level at foundation to roof overhang (or junction of roof and front wall line) and from side to side of building. Only one (1) sign per structure with two (2) exceptions: (1) corner structures where a maximum of two (2) signs are allowed (one (1) sign facing each adjacent corner road or pedestrian way), the total of which shall not exceed twenty-five (25) percent of the front building face area; and (2) structures whose front and back each abut a road or pedestrian way, where a maximum of two (2) signs are allowed (one (1) sign facing each adjacent road or pedestrian way), each sign shall not exceed twenty-five (25) percent of the respective building face area.

Option 2:

This option allows for one additional exception which allows for business unable to place a freestanding sign on their property to utilize another side of their building for attached signage. The language also changes the current verbiage of “structure” to read “business” which clearly allows for each business to have attached signage. Business excluded from utilizing two facades will mostly be in commercial areas outside the CBD where there is adequate room for a freestanding sign and the business is not on a corner lot or double frontage lot.

- c. Attached signage shall not exceed 25% of the front building face. A building face shall be measured from ground level at foundation to roof overhang (or junction of roof and front wall line) and from side to side of building. Three (3) exceptions shall allow an additional 25% cover on additional building faces.
1. For corner businesses the adjacent corner road or pedestrian way may be utilized for attached signage;
 2. For businesses whose front and rear each abut a road or pedestrian way, both may be utilized for attached signage;
 3. For businesses that have insufficient setbacks to allow a freestanding sign, attached signage shall be allowed on an additional side.

Option 3:

This option allows for signage on all sides for all businesses in town. This allows flexibility to the business owner in placing signs on their building, while keeping the original limits of 25%.

- c. Attached signage shall be allowed on all sides of a business. The total allowable building face signage shall not exceed 25% of the front building face. A building face shall be measured from ground level at foundation to roof overhang (or junction of roof and front wall line) and from side to side of building.

Option 4:

This option allows for signage on all sides for all businesses in town, but limits the area to 10% for the front building façade and 5% for all other sides. This allows flexibility in placing signs on building, but prevents a plethora of signs to be placed on one side of a business.

- c. Attached signage shall be allowed on all sides of a business. Allowable signage on the front building face shall not exceed 10%. Signage on all other sides are limited to 5% of the respective building faces. A building face shall be measured from ground level at foundation to roof overhang (or junction of roof and front wall line) and from side to side of building.

Recommended Alternative

After reviewing existing businesses in Carolina Beach (see Exhibit A) and reviewing how other local government's handle attached signage (see Exhibit B) the Town recommends option 3. This option allows flexibility for all business to utilize all sides of their building for signage. It puts the onus on the business owner to determine how they will utilize the area they have available.

LONG RANGE PLAN CONSISTENCY

TECHNICAL REVIEW COMMITTEE

TRC recommends approval of the text amendment and finds the proposal to be generally consistent with the land use plan and other long range planning documents.

Policy:

- 29 Architectural design which is not in keeping with the character of the coastal community atmosphere shall not be supported by the Town.

Staff comments: The proposed text amendment helps clarify our ordinance for staff and business owners. It also presents: (1) a more reasonable expectation for business signage; (2) promotes local business by allowing all business to utilize two sides of their building; and (3) maintains the aesthetic value in commercial structures by placing additional limits on signage area.

TRC comments: Option 3 gave the most flexibility to business owners while establishing reasonable limitations on the amount of signage allowed.

PLANNING AND ZONING:

APPROVAL

Recommend approval of the proposed amendment to advise that it is consistent with the land use plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

DENIAL

Recommend denial of the proposed amendment, to advise that it is inconsistent with the land use plan or other applicable plans, and to adopt the staff report which addresses plan consistency and other matters.

TOWN COUNCIL:

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.

DENIAL

Motion to deny the zoning request based on inconsistencies with the goals and objectives of the adopted land use plan and/or other long range planning documents.

COMPLIANCE WITH N.C. GENERAL STATUTES: Yes

Exhibit A

After reviewing site plans of current businesses in Carolina Beach, 25% coverage seems excessive. This number could be reduced and still provide a sufficient amount of area for advertisement.

1. The Palms retail establishment has a front façade of 4,860 sq ft, which would allow a sign that is 1,215 sq. ft. in size. A sign this size would run the entire length of the building (180 ft) by about 7 feet tall. The current sign at this location is 2.5 feet by 14 feet making it 35 sq ft, roughly .7% of the total façade.
2. Food Lion's façade is 5,376 sq ft, which would allow for a sign 1,344 sq ft in size. The current sign is 80 sq ft, which is only 1.5% of the total façade.
3. A smaller business, Pizza Hut, still does not come close to using the 25% allotted coverage. The Pizza Hut façade is 320 sq ft, which would allow for a sign 80 sq ft in size. Their sign is 35 sq ft and only covers about 9% of the façade of the structure.

Exhibit B

Highlight from some other ordinances:

- Summerville allows attached signage to be up to 8% of the front of a building and 3% of other sides.
- Gulf Shores does not allow wall mounted signs to face adjacent residential uses
- Knightdale restricts wall signs from projecting more than 18" from the building wall. They also allow larger coverage on the front (10%) and limited on other sides (5%).
- Ocean Isle is more restrictive to internally lit wall signs. The height of wall signs can not extend above the second story. No more than 15% of a façade window can be utilized for signage. Signage is also limited around windows and other architectural features.
- Surf City, Clayton, and Cary limit signage based on lot frontage.
- Clayton limits sign illumination near residential zones.

Summerville, SC

Wall sign means any sign attached parallel to, but within 12 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Wall signs: Signs on the walls of a building (including signs attached flat against the wall, painted wall signs and projecting signs) shall meet the following requirements:

- a. Signs on the front surface of a building: The total area of signs on the exterior front surface of a building shall not exceed eight percent of the front surface of the building.
- b. Signs on the side and rear surface of a building: The total area of signs on a side or rear surface of a building shall not exceed three percent of the exterior side or rear surface of the building, respectively.

Gulf Shores, Alabama

Attached Flat Signs. Electronic changeable copy signs attached to buildings are only allowed as follows:

1. A maximum of one (1) sign per building or premises, whichever is less, is permitted for a site that does not contain any other electronic changeable copy sign, detached or wall mounted.
2. Such signs may not exceed twenty (20) square feet in area and will be counted toward the calculation for maximum signage for the building.
3. Wall mounted signs shall not be oriented toward adjacent residential uses.

4. Such signs must comply with all other applicable provisions of this ordinance.

Knightdale, NC

Wall Signs

1. The maximum permitted aggregate area of Wall Signs includes the area of any windows or doorways.
2. The preferred location for Wall Signs is between the first floor window and window sill of second floor, or on a sign frieze area of the building if original to building.
(Exception: Building identification which is an integral part of the building's design and architectural character shall not be considered a sign for the purposes of this Standard.)
3. Signs may be placed on or behind windows, but at no such time shall the opacity (visibility into the building) be less than 50 percent of the total window area.
4. A Projecting Sign may be substituted for a Wall Sign.
5. No Wall Sign shall project more than 18 inches from the building wall. Further, no Wall Sign or its supporting structure shall not cover any window or part of a window, nor shall it extend beyond the highest point of a roofline, parapet, or mansard roof.

Wall Front Facades 10% of wall

Wall All other facades 5% of wall

Nags Head, NC

Wall signs placed against the exterior walls of a building shall be permitted, provided that they shall not extend more than 12 inches beyond the building wall surface and shall not exceed 20 percent of the exposed finished wall surface area including openings on the wall where it is placed.

Ocean Isle, NC

Sign, wall means a sign attached to or painted on a wall or building, with the exposed display surface of the sign in a plane parallel to the place of the wall to which it is attached or painted, including signs affixed to or on display through a facade window.

(c) *Wall signs.* Wall signs in C-1, C-2, or C-3 zoned areas shall be limited to 2.5 percent of the front facade when internally lit and five percent when externally lit. Wall signs may be erected and displayed when in compliance with the maximum percentage of facade covered limitations and provided:

- (1) Wall signs placed in the space in windows located one above the other shall not exceed in height two-thirds of the height of the taller of the adjacent windows.
- (2) Wall signs placed in the space between the windows located beside each other shall not exceed in height two-thirds of the height of the adjacent windows.
- (3) No wall signs shall protrude more than 12 inches from the wall to which it is attached.
- (4) No wall signs shall extend beyond the parapet or eave line as appropriate of the building to which it is attached. If the building consists of more than two stories, wall signs shall not extend above the second story.
- (5) The display area of wall signs painted on or affixed to or otherwise displayed on or through a facade window shall not exceed 15 percent of the area of the window.
- (6) Wall signs shall not cover up or interrupt architectural features.
- (7) The message of a wall sign shall be limited to the names, trademarks and service marks of the establishment located on the zoning lot. Additionally, the message of wall signs may include information necessary to direct patrons to the business where the business may not have a direct entrance from the street or pedestrian way.

Surf City, NC

1) Sign area limitations for individual lots with no more than two (2) uses or units within the commercial districts shall be computed on the uniform and equitable basis of street frontage. Such sign area shall be limited to one and one-half (1 1/2) square feet of usable sign face for each linear foot of frontage. Inside signs are not included in the computations. (Example: fifty (50) ft. lot is entitled to seventy-five (75) sq. ft. of signage.)

- 2) Signage for shopping center, malls and other multi-tenant buildings (three (3) or more units) shall be based on the following:
 - a) Signage for each unit or tenant shall be based on one (1) square foot of signage for every linear foot of the unit building wall facing the main street or access depending whichever applies.
 - b) Maximum of two (2) signs per unit or tenant.
 - c) Shopping Centers, malls and other multi-tenant buildings are allowed two (2) multi-tenant sign per street frontage not to exceed ninety-six (96) square feet per sign and six (6) feet in height. Signs must have a minimum separation of five-hundred (500) feet and meet all required setbacks.
 - d) Individual tenants/units of the shopping center (excluding out parcels) are not permitted free standing signs.
 - e) The property owner or management company must sign all permits for signage.
 - f) All lighting shall be done in compliance with the Town of Surf City lighting ordinance.
- 3) Lots fronting on two (2) or more streets shall compute the permitted sign area for each street separately and shall not transfer sign area from one frontage to another frontage of said lot.
- 4) Lots fronting on street and estuarine shoreline shall be computed as if two (2) streets. The permitted sign area shall not transfer from one frontage to another frontage of said lot.
- 5) The total square footage of all signs, except indoor signs, shall be limited to the above computation and is subject to the additional limitations and restrictions set forth in this section.
- 6) Itinerant merchant signs shall comply with the square footage requirement of the lot on which they are located.
- 7) Signs attached to the interior side of a window or door of commercial use are permitted provided that all such signs both (temporary and permanent) do not exceed a combined maximum of twenty-five (25) percent of the total window area.

Cary, NC

Wall Sign

(1) Non-Residential

Wall signs shall be allowed on non-residential properties provided that:

- (a) The total area of an individual wall sign on a building shall be limited to one square foot in area for each linear foot of building frontage, and the fact that signs may be permitted on more than one wall of the building shall not increase this maximum; but in no case shall the total area of an individual wall sign be permitted to exceed ten percent of the total wall area to which the sign(s) is affixed.
- (b) The total number of wall signs shall be limited to two on single tenant and multi-tenant buildings that share a common principal entrance, except as provided for in Item k below.
- (c) No wall sign shall project above the highest point of the building wall on the same side of the building as the sign; this shall include marquee signs and any other signs not affixed directly to such wall.
- (d) On a single occupancy building, all signage or message elements, except for poster boxes, marquee signs, logos and wall signs on theaters on any single wall, shall be considered parts of the same sign and shall be measured by a rectangle surrounding all of them;
- (e) On a multi-occupancy building, each occupant with a separate individual outside entrance serving the general public may have a separate wall sign. Corner tenants with a door or window on their side walls and tenants with a separate outside entrance serving the general public where such entrance is in a different exterior wall from any other entrance for which such tenant shall be allowed one additional wall sign;
- (f) On a multi-occupancy building serving primarily office uses, there may be signs on two separate walls of the building;
- (g) On a multi-occupancy building, more than two signs may be permitted provided that:
 1. The allowable sign area for each unit/tenant space is defined in the Uniform Sign plan or when the first sign permit is submitted, and
 2. The total signage of a multi-occupancy building shall be limited to one and 1/4 (1.25) square feet in area for each linear foot of building frontage.
 3. At least two of the building sides have been designed to appear as a multi-tenant structure composed of at least two individual "storefronts" each (in addition to the principal entrance if located upon the same side); and

4. Each "storefront" shall include the following elements at a minimum:
 - a. A facade which projects above and outwards from the primary building wall plane; and
 - b. The inclusion of vertical and horizontal design elements; and
 - c. The inclusion of different surface materials and textures so as to distinguish the storefront from the remainder of the building wall; and
 - d. The inclusion of windows (whether false or otherwise) to give the appearance of an individual storefront.
5. Multi-story buildings with more than 3 floors shall be allowed a maximum of one and one-half (1.5) square feet in area for each linear foot of building frontage.

Clayton, NC

Wall/fascia sign. An on-premises sign attached flat to or mounted away from but parallel to the building wall, projecting no more than 12 inches from the building wall.

(1) *On-premises signs.* The total amount of on- premises signage area permitted on any lot shall not exceed one and one-quarter times the amount of street frontage. On lots with frontage on more than one street, the longest dimension may be used to calculate the maximum area permitted. When no freestanding sign other than a ground sign or monument sign is proposed, a 10% increase in permitted sign area shall be allowed.

- a) Wall/fascia sign. Including signage or letters affixed to the inside or outside of a window.
 1. Size. The maximum size of a wall/fascia sign shall not exceed the limits established in this section. Further, no more than 25% of the area of any wall or window may be devoted to signage.
 2. Number. More than one wall sign may be erected, provided the total surface area regulation is not exceeded.
 3. Setback. Setback requirements do not apply to wall/fascia signs.
 4. Height. No sign may extend more than 12 inches above parapet walls or above roof lines of buildings without parapet walls.
 5. Projection/clearance. No sign may project more than 12 inches from the building wall. All wall signs shall maintain a clear height of eight feet above the ground below, if it projects more than six inches from the building wall to which it is attached.
 6. Construction. All wall signs shall be fastened directly to the supporting wall.
 7. Illumination. Wall signs may be illuminated either internally or externally, provided that no sign located within 150 feet of a residential use or district, except in the B-1 District, may be illuminated during the hours between 12:00 midnight and 6:00 a.m.
 8. Location. Wall signs may be located in all zoning districts so long as no illuminated sign is located in any residential district.

Commission Questions

Mr. Keith asks if the square footage of someone's large sign would be calculated in if the person wanted to put up some other signs. Mr. Parvin answers if the person uses 20% on one side, then there would only be 5% left to use somewhere else; the total is 25%.

Public Hearing

Ms. McQuillen moves to open public hearing. Ms. Efirid seconds. All ayes.

No one speaks.

Ms. McQuillen moves to close public hearing. Mr. Kopitopoulos seconds. All ayes.

Public Hearing Closed

Commission Discussion

Ms. Efirid notes that Option #3 appears to be the most fair and equal; Mr. Keith agrees. Ms. McQuillen asks how staff came up with 25%; Mr. Ferguson explains that 25% is standard across the board, and that

although some communities use the 25% on a specific side of the building, staff is proposing the 25% to be allocated as a total and any side of the building can be used. This leaves it up to the business person to decide which sides should get signage to best suit his business.

Motion

Ms. Efird moves to recommend approval of this text amendment, specifically Option #3, and that it is consistent with the Land Use Plan. Ms. McQuillen seconds. All ayes. **Motion carries unanimously (5 to 0).**

Ms. McQuillen says she noticed that monument signs are not in the ordinance. Mr. Hardison says he would consider signage for a monument to be a freestanding sign.

ITEM #7 New Business Discussion: Quasi-Judicial Procedures for the Planning & Zoning Commission

7:56pm

Gary Ferguson presents his memo

I. Issue Overview:

The Planning and Zoning Commission has expressed their concerns as to whether or not they should act quasi-judicially or legislatively in formulating a recommendation to Town Council concerning conditional use permits (CUPs). It is understood that the decision making authority must act quasi-judicially when reviewing CUPs. Currently, the Planning and Zoning Commission operates in a quasi-judicial manner as well. Doing so, they are not permitted to discuss CUP items with the public. The commission has identified this as a problem and hindrance to the commission's effectiveness. Since the Planning and Zoning Commission exists to make recommendations, it is important for the Commission to make recommendations based on the applicability of the zoning ordinance as well as public concerns. Quasi-judicial processes only allow public comment to be made when the commission formally opens the floor to public comment.

II. Other Planning Commissions:

According to Jane Daughtridge, New Hanover County does not swear in witnesses, but staff write-ups provided to them do follow the findings of fact format required of the Commissioners. So, the things they are considering are consistent with the quasi-judicial hearing, even though the process of recommending is not.

Bill Duston, Planning Director of the Centralina Council of Governments, suggests that a Planning Commission should only operate in a quasi-judicial mode if the local code specifies that it has the authority to **grant a decision** and that decision is of a quasi-judicial nature (i.e., conditional use permits).

Buncombe County goes into the quasi-judicial process if lawyers request it for the record or when they address variances to the subdivision ordinance. Leigh DeForth of the Buncombe Planning Department indicates the difficulty of reminding the board to operate in a quasi-judicial manner because of how infrequently the circumstances arise. In order to reduce confusion as to when they operate in a certain fashion, the town lawyer is present to advise them as to how they should conduct a specific hearing. Other communities contacted were Knightdale and Aberdeen. Knightdale does require their planning board to operate in a quasi-judicial fashion but Aberdeen does not.

III. Recommendations:

In hearing the concerns of the Planning and Zoning Commission and after researching how other communities operate, the Planning and Zoning Commission does not need to follow the quasi-judicial process when making recommendations to council. There is no explicit language in either the town code or code of ordinances that requires the Commission to operate in a quasi-judicial manner. Sections 14.5

and 21.2 both address how the Commission should operate but make no mention of quasi-judicial processes. These sections are attached as “Exhibit A.” It may serve the town and the Commission better if there are no barriers to communication between the Planning and Zoning Commission and citizens of Carolina Beach regarding specific developments within the Town. In communicating with the public, the Commission can make more informed and rational recommendations, reflective of their personal views as well as the community, to Council. The Planning and Zoning Commission Standards of Practice will need to be modified to reflect the hearing process if the Commission decides to become a recommending legislative body.

EXHIBIT A

Sec. 14.5. Planning and zoning commission review.

(a) *Planning and zoning commission makes recommendation to town council.* The planning and zoning commission shall consider and make recommendations to the town council concerning such conditional use permit application. The planning and zoning commission shall review all applications at a regularly scheduled public meeting held, advertised and noticed in accordance with the same advertisement and notice requirements for town council under sections 14.8 and 22.4 of this ordinance.

(b) *Pre-application review and joint meeting with town council encouraged for certain projects.* At the discretion of the planning and zoning commission, and with the concurrence of the applicant, the planning and zoning commission may request that a joint pre-application meeting with the town council be held to discuss preliminary plans for the proposed use. This is especially encouraged where the conditional use being proposed is large or may involve issues of significant impact in the community or neighborhood.

Sec. 21.2. Planning and zoning commission.

(a) *Establishment.* A planning and zoning commission, consisting of seven (7) members, is hereby established, appointed by the town council. All members shall reside within the corporate limits of Carolina Beach. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the commission.

(b) *Tenure.* Members of the planning and zoning commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

(c) *Officers.* The planning and zoning commission shall elect one (1) member to serve as chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the chairman and other officers shall be one (1) year.

(d) *Powers of the planning and zoning commission.* The planning and zoning commission shall have the following powers and duties related to the administration of the zoning ordinance:

(1) Review petitions for proposed amendments to the zoning ordinance text and/or map and make recommendations to the town council.

(2) Review applications for the issuance of conditional use permits and make recommendations to the town council.

(3) Initiate proposed amendments to the zoning ordinance text and/or map and make recommendations to the town council.

(4) Prepare studies and plans related to controlling and creating orderly growth and development of the town.

(5) Develop and recommend to the town council plans, goals, and objectives as well as policies, ordinances and administrative procedures or other means for carrying out the studies and plans referenced above.

(6) Perform any other duties assigned by the town council as authorized in G.S. § 153A-321.

(e) *Planning and zoning commission administration.*

(1) The commission shall adopt rules of procedures and regulations for the conduct of its affairs.

(2) All meetings of the commission shall be open to the public. Regular monthly meetings shall be held on the second Thursday of each month at 7:00 p.m. in the council room of the town hall.

(3) The commission shall keep a record of its meetings, including the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it and all official actions.

(4) Conditional use permits or zoning text and/or zoning map amendment shall be considered by the commission for recommendation(s) to town council at a regularly scheduled meeting held, advertised and noticed in accordance with the same advertisement and notice requirements for town council under Sections 14.8 and 22.4 of this ordinance.

(5) The person acting as chairman of the commission [or the hearing officer] is authorized to administer oaths to any witnesses in any matter coming before the commission.

(6) Any member of the planning and zoning commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the commission, and shall be replaced or reappointed by the town council as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the commission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

(f) *Quorum and vote required.*

(1) A quorum of the commission, necessary to conduct any business of the commission, shall consist of five (5) members.

(2) A simple majority vote of those present shall be necessary to conduct routine business of the commission.

Commission Questions/Discussion

Ms. McQuillen says that the general public wants to speak with the commissioners, and they have to tell the public that they cannot, which makes people think it is all a big secret. The public needs to know that the Town Council is the decision-making board, and the Planning & Zoning Commission is not. She thinks the town needs a board that the people can communicate with outside the meeting, as she often finds that people are very misinformed about projects. She does not believe there is much enforceability of testimony given when people are sworn in under the quasi-judicial process, either.

The commission chooses to open for public comment to get their opinion.

Public Comment

Lynne Denne, 100 N 7th St – she understands that the Town Council is bound by being quasi-judicial, but as a citizen she feels that communication is important and since the Planning & Zoning Commission is an advisory board, it should not be quasi-judicial so that the citizens can communicate with the commissioners and they can act as a sounding board. This is supposed to be open government, and for those who cannot attend the meetings for one reason or another, they can still be heard. She feels it will also make it so the public is much more informed, and less angry by the time they get to Town Council because of their own misinterpretation of proposals.

Don Motsinger, 107 Carolina Beach Ave S – asks when the P&Z became quasi-judicial. He remembers that years before the Marriott came in, it was discussed by everyone. The information was made available. The quasi-judicial process does not really work, because people are going to say what is in their best interest as there is no penalty if they lie. Not being able to know what is going on fosters suspicion.

Commission Discussion

Ms. McQuillen feels people may be intimidated by the swearing-in process. The procedure would be the same with exception of swearing people in; Mr. Ferguson says this is entirely up to the commission. Ms. McQuillen wants the commission to be able to do what they can to encourage people to step forward and voice their opinions. Mr. Kopitopoulos has concerns over how to make sure people stick to discussing the issue that is addressed; Ms. McQuillen says they would need a strong chairman. Mr. Keith says the commission can set up the procedure however they want. He says the commission has been non-quasi-judicial for the majority of the 23 years he has served on the commission, and can understand the value in not having quasi-judicial. Then, he can understand the benefits of having a more meaningful

recommendation to town council through the quasi-judicial process, rather than just a group of opinions, which he acknowledges is still important. However, there is no value to the basis of what someone thinks. Mr. Kopitopoulos says that is why it is important for the commission to understand what the community thinks. Ms. McQuillen would like to change to non-quasi-judicial. Mr. Kopitopoulos asks how the commission should proceed. Mr. Ferguson thinks it would be in the board's best interest to make a recommendation to town council.

Recommendation

Ms. McQuillen says the commission wishes to no longer work as quasi-judicial, and recommends that the Town Council approve this request. Mr. Miller seconds. All ayes. **Recommendation carries unanimously (5 to 0).**

Continued Discussion

Ms. McQuillen says in the future the Town Council may have a commission that they would want to be quasi-judicial in order to make decisions, not recommendations. Mr. Ferguson discusses conditional zoning with the commission and mentions the way Mr. Russ Maynard set up community meetings prior to bringing his Branded Resort Hotel project forward. He says this is somewhat the way a board, potentially this one, would act if the town moved to conditional zoning – the public, Town Council, Planning & Zoning Commission, everyone can talk about the projects and it breaks down the barriers.

ITEM #8 Non-Agenda Items **8:15pm**

Ms. McQuillen asks for a status on Conditional Zoning. Mr. Ferguson explains that the town manager has asked planning to begin research on this, to uncover the pros and cons of it. Staff has done this and produced a memorandum for him to review. Mr. Ferguson says that a book was published in the late 1980's on contract zoning – "SUDs and CUDs" – Special Use Districts and Conditional Use Districts. This is a means of circumventing the process of contract zoning, which the laws of North Carolina do not really allow. Conditional Use Zoning bounds project applicants to the use proposed. This allows for joint public meetings. Because it is a joint effort, the project becomes relatively approvable. Mr. Parvin drafted the conditional zoning ordinance the town manager is reviewing, and he says he sent it to the Town of Leland, and they approved it for their ordinance quickly.

ITEM #9 Adjournment **8:21pm**

Ms. Efird moves to adjourn. Ms. McQuillen seconds. All ayes.