



**Board of Adjustment
Minutes
November 16, 2015**

Members Present

John Kurek, Chairman
John Lotspih
Gary Plough
Vada Palma
David Cox

Staff Present

Jessica Fiester, Planner
Derek Taylor, Town Attorney
Kim Tynes, Secretary

Alternate Members Present

Cynthia Chamblee

Others Present

George Barnes, Applicant
Matt Lowder, Civil Engineer
Harry Archer, Council
Norman Livengood, Planning Board
Curt Winbourne, Planning Board
Jimmy Beckom, President, IB&RC HOA

Alternate Members Absent

Judy French

CALL TO ORDER

Meeting was called to order by John Kurek, Chairman. All board members were present with the exception of Judy French who was traveling. Alternate member, Cynthia Chamblee, was in the audience.

OATHS OF OFFICE

Oaths of Office were administered and David Cox, John Lotspih, Vada Palma and Gary Plough were sworn in. Judy French will be sworn in at the next meeting.

NEW BUSINESS

Chairman Kurek explained all decisions were to be made only on testimony presented under oath from experts and other comments can only be used at arguments.

Each board member was given the opportunity to reveal conflicts and withdraw if necessary. No members have personal interest, financial involvement nor had prior conversations or correspondence regarding this project. All stated no to the above.

No members have special knowledge of this project. All agreed they could rule fairly and impartially. There were no objections to any member of the Board seated. All experts and citizens that planned to testify on this project were sworn in to give the whole truth and nothing but the truth.

Chairman Kurek opened the hearing of Conditional Use Permit 15-01. There can be no hearsay evidence, only facts presented about how project will affect other property value and how increasing vehicular traffic would pose a danger to public safety.

Jessica Fiester gave a presentation on the request from Vanguard Ventures for a proposed Dollar General for 2410 West Fort Macon Road.

The CUP requirements are:

- Section 3.4 calls for the TRC to review site-specific CUP applications (10/27)
- Section 3.9 calls for the Planning Board to review and suggest conditions (11/4)
- Article 14 calls for the BOA to review CUP requests (11/16)
- There are no specific or additional conditions associated with this request in the UDO

Renderings of were shown of the exterior of the proposed store showing the hip roof and coastal flare with smaller windows and shutters. The hardiplank siding is to be a neutral white or gray with the following general facts listed:

- 9,002 square foot building
- \$1.4 million project
- Three Signs posted on site by Public Works Department on October 27
- 190 letters mailed to property owners within 500-feet or at request
- A great deal of focus on aesthetic design
- A great deal of effort has been put forth to mitigate environmental impacts
- Design preference leaned towards residential-coastal style & neutral colors at both TRC and Planning Board
- Sidewalks will be installed at developer's expense on Lee Drive and Hwy 58
- Buffers to be included voluntarily by preserving existing vegetation
- Parcel is zoned Resort Services (RS)
- All land contiguous to this parcel is zoned RS
- Land is currently owned by Baker & Smith Properties
- A simple subdivision will occur if permitted (currently on 2.185 acres, actual site is proposed to be 1.305 acres)
- Remainder of land will remain undeveloped (0.88 acres)
- 50-feet of frontage and 100-feet of depth requirements can be fulfilled on each new lot
- Parking requirements are exceeded 30 spaces provided, (18 required @ 1/500 sf floor area)
- 2 handicap spaces provided (1 required)
- 2 Off-street loading spaces are proposed per section 9.7 (12'x30')
- 8 bicycle parking spaces provided (exceeded)
- Setbacks are exceeded (front/25, side/10, rear/20)
- Signage will be ground monument
- Wall signage will be 18" individual letters
- Dumpsters & HVAC will be screened (demonstrated)
- Health Department Permit Obtained on August 13, 2015
- Lighting plan submitted & approved
- Landscaping & Lighting will be coastal in design as demonstrated
- Impervious coverage (24,882 square feet or 44%)
- Maximum Height is 55-feet (actual height is 24' at peak)
- Pervious paving and two infiltration areas are demonstrated
- Erosion and Sediment Control State Permit Submitted per Section 2.26 of UDO
- Project is compliant with the Town Land Use Plan

Ms. Fiester also explained "Resort Services" as "The Resort Services zoning district is established as a district to provide areas, which, due to their location, natural features and access, have an extremely high potential for both permeant and tourist types of residential development. Additionally, commercial uses are permitted and shall be oriented to businesses and services associated with those tourist related activities which reflect a family atmosphere." Section 5.5 Table of Permitted Uses lists the following use as conditional in the Resort Services (RS) Zoning District: "Retail sales or rental businesses other than the sale, repair or rental of jet skis and water vessels"

CUP Evaluation Requirements UDO Section 14.3.5

- The proposed use will have either a minimal effect or positive effect on public health or safety;
- The use meets all required conditions and specifications; (From Article 6)
- The proposed use will have no material adverse effect on the value of adjoining or abutting properties unless the use is a public necessity;
- The proposed use is in harmony with the Town Land Use Plan and/or other plans adopted by the Town Council.

DOT did not require a traffic study for this job but based on concerns presented they met with Jessica and Marc Shulze, Director of Public Works to review the situation. NC DOT plans to study the traffic pattern in the spring of 2016 when they can get a more accurate indication. The site plan reflects the final driveway plan as approved by NCDOT:

- Four options for an ingress/egress on NC58 were studied
- This version was selected and paired with pedestrian flasher signs at the crosswalk east of the project & supported by NCDOT after a site visit on 11/10
- NCDOT has committed to studying the NC58/Lee Drive intersection for potential improvements & potential light installation in the spring of 2016. This is a result of neighborhood concerns.
- The area is also part of a Comprehensive Highway 58 Corridor Study in Progress
- Within 150-feet of Lee Drive there have been 31 accidents reported since 1990 (per RPO and NCDOT info request)
- Traffic estimates of similar stores assume 388 trips per day with 10 trips in peak morning hours and 34 in peak evening hours
- Traffic estimates did not warrant a full impact study

There were no questions from the Board, Attorney or Applicant.

The November 4th TRC meeting results and Planning Board review found the project to be technically compliant and was presented by Planning Board Representative, Curt Winbourne with the following conditions noted:

- Installation of Sidewalks on Lee Drive & Hwy 58 to NCDOT standards
- Sidewalk agreements are subject to approval by NCDOT and the Town
- Sidewalks are to be installed prior to the project receiving a CO
- Ingress/egress point on Highway 58 is subject to NCDOT permit
- Two "Pedestrian Flashers" are to be installed at the existing crosswalk
- Preservation of as much existing vegetation as possible is requested as demonstrated on the tree survey and site plans
- Wall signage letters are to be individual and are not to exceed 18"
- Building approval is contingent upon NCDEQ permit issuance
- Monument signage shall be used (rather than freestanding air signs)
- AB Welcome Sign is to be relocated to accommodate potential traffic improvements
- The building shall feature a brick knee wall as demonstrated
- The building shall be white or gray Hardi-Plank as demonstrated
- The roof shall be a hip roof with a 3:12 slope
- Building design shall not vary from renderings approved by Planning Board & TRC
- All areas viewable from a street or adjacent properties shall be given equal design significance (façade) as demonstrated
- The dumpsters will meet setbacks and be screened in materials that match the building façade
- All mechanical equipment will be screened with façade-matching materials as demonstrated
- Lighting and landscaping shall reflect coastal area and be unobtrusive as demonstrated in lighting plan provided

On the Conditional Use Requirements, The Planning Board supports the staff report presented earlier.

There were no questions from the Board, Attorney or Applicant.

George Barnes, Applicant spoke to the Board stating they had been looking for years to find a great location and researched various locations. This project will have no adverse effects on public health or safety and should reduce the traffic having to leave the island to shop. It will increase walkability with sidewalks and bike racks. The project is environmentally sound and no adverse effects from infiltration and will incorporate many residential elements such as roof, siding, shutters, etc. "This project is something you, me and the community will be proud of."

This site is in harmony with the zoning, fits the classification and is highly suitable for development. All supporting documents were included in the presentation given by Jessica.

There were no questions from the Board, Attorney or Applicant.

Matt Lowder, Civil Engineer for the project was there to support the applicant and answer technical questions. He was asked by the Town Attorney to address the deceleration lane. Matt stated DOT is one of their first stops for input. Public safety is a main concern for all parties involved. They have attempted to keep all driveways as far from Lee Drive as possible. They have limited frontage to work with and must have 100' between Lee and Dollar General Driveway, the requirement has been met. There are too many driveways in the vicinity to have many options. There was a field visit with the DOT as well as the accident log from the Town of AB Police Chief showing only 31 accidents as a low volume of accidents in that area since 1990.

All supporting correspondence is already in the records/presentation given by Ms. Fiester. The Town attorney stated his input is valid as an expert witness.

David Cox asked if the accident report was during winter or summer months. Crash data provided by ABPD was an overall number.

John Moore, tenant in surrounding area, asked about traffic impact to which Ms. Fiester stated this type store should average 386 trips per day. He also asked if residents were interviewed and how much data was collected from residents and inquired about a deceleration lane. Mr. Lowder stated they worked closely with Town staff and adjoining neighbors. Ms. Fiester stated she had discussions with residents that contacted her as a result of the property being posted and letters that were mailed out to the surrounding neighbors.

Nancy Ng, resident, asked if there will be lines painted on Lee Dr. Mr. Lowder believes DOT will shy away from that until the impact analysis is complete in the spring of 2016.

David Cox inquired about clearing brush for construction having an impact improved visibility for traffic and pedestrians to which Mr. Lowder replied yes, it will. They are trying to keep as much natural vegetation as possible but will have definite sight triangles.

Joe Tarascio asked how seeing traffic will help the flow during May thru August. Matt again stated the clear site triangles will improve visibility and the whole corridor will be evaluated when the season picks up again for an accurate analysis.

Prior to opening the floor to Public Comment, Jimmy Beckom asked to speak not for or against the project but to share his expert information. Mr. Beckom, while residing at 5008 Stonehill Drive in Raleigh, is the Vice President of the IB&RC, (Island Beach and Racquet Club), Board of Directors and was here to speak on their behalf as neighbors of the proposed site.

Derek Taylor determined Mr. Beckom to be an expert witness based on his history as a retired former director at the Department of Transportation after 37 years of service as a Professional Engineer and Land Surveyor. Mr. Beckom stated he felt privileged to be part of this project from early on and has had good conversations with Ms. Fiester, as well as Mr. Barnes and participated in the TRC meeting. He believes traffic concerns to be the key issue with this project.

IB&RC has 75 units on the North side of Hwy 58 and 66 on the South side. He lives here about 7/8 months of the year and the project impact on traffic safety is his number one concern, vehicular and pedestrian. There is a lot of pedestrian traffic crossing 58 between the beach and tennis/recreation facilities during the busy season.

He believes there has been a good response from the applicant and Ms. Fiester and adding the flashing pole light to the pedestrian crosswalk will be helpful as well. Given the traffic pattern, driveways and Lee Drive, this is favorable for the traffic pattern. He is not sure a deceleration lane is right for this particular case, even though they do keep traffic moving. Deceleration adds another lane of traffic for pedestrians and may become more problematic.

Mr. Beckom closed his comments with the following:

- Residents from IB&RC are thankful for plans to retain as much natural vegetation as possible, encouraging a natural buffer.
- Design elements reflecting a residential look and extending the character on all four sides
- Keeping in mind pedestrian safety for women, children and elderly by the additional flashing pedestrian crossing light.
- Thanked all for allowing him to be part of the process and addressing their concerns.

There were no questions from the Board, Attorney or Applicant.

PUBLIC COMMENT

The following spoke during this time:

Jimmie Beckom	5008 Stonehill Dr., Raleigh, NC 27609 and IB&RC Atlantic Beach
Nancy Ng	200 Forest Knoll, Atlantic Beach
John & Elaine Moore	105 A South Court, Atlantic Beach
Joe Tarascio	113 Hoop Pole Creek Drive, Atlantic Beach
Norwood Jackson	1105 Woods Ct., Morehead City
Llew Ramsey	118 Bowen Street, Atlantic Beach
Ken Jones	103 Chestnut Court, Pine Knoll Shores

Chairman Kurek reminded all witnesses they must focus their testimony toward the Conditional Use requirements and how they believe requirements are not being met by offering testimony, competent material and substantial evidence they may have to the contrary.

Norwood Jackson, Realtor, addressed the Board and the audience. Mr. Jackson has been a licensed Realtor for 11 years and is an accredited buyer's agent, a member of the Realtors Institute and the recipient of Commercial Brokerage awards.

Mr. Jackson represents the property owners Baker-Smith and has been in communication with the Applicant for almost 2 years looking for the perfect location to meet their needs. There was another option but it would have involved destroying a mobile home park. He supports this project, believes it is the ideal location with adequate lot land size and will not cause a decrease in the value of the surrounding properties. He has happy to see a major investment in Town that is not a t-shirt shop or restaurant.

There were no questions from Board or Applicant. When asked by the attorney if his expertise would allow such a statement regarding property value, Mr. Jackson stated yes.

Joe Tarascio gave a sketch to the Board that was entered into the record. Mr. Tarascio has been a licensed General Contractor since 1996 and a resident of Hoop Pole since 1986. His sketch shows that Lee Drive intersects with Hwy. 58 and a driveway from IB&RC. He stated Island Cove was allowed to add a restaurant on the end of their building that extends to the Town's ROW and there is no loading zone for those businesses. The large delivery trucks have no other option but to park on the side of Lee Drive and they drive thru the residential section to get back onto Hwy. 58. He has been there for 30 years and has witnessed at least 30 near misses in that area.

Drivers entering Lee from East Hwy 58, swing across Lee to get to store/restaurant and always causes near misses. There is no quick exit onto Hwy. 58. Any idea how long it will take to get a tractor trailer from Lee onto Hwy 58?

Hoop Pole Creek residents and surrounding streets, typically drive thru neighborhood to Knollwood to avoid Lee Drive to exit area.

Mr. Tarascio has no problem with the project but does have a problem not being able to ask for traffic study for a light at the intersection, waiting for DOT is not good enough. Good opportunity for the project but has real misgivings without traffic control upfront.

There were no questions from Board, Attorney or Applicant.

John Moore stated he has spoken with Jessica and the Applicant and the project looks good other than Lee Drive. They need 4 designated lanes on Lee and a deceleration lane on Hwy 58. He suggested moving Town ROW on West side to allow for delivery trucks at Island Cove and White Swan. He believes these things should happen prior to a stop light or this may not be the right area for this project.

Vada Palma asked how it was possible to have 4 lanes on Lee Drive. Mr. Moore changed his response to 3 lanes, one lane in to Lee and two outbound from Lee. (One to left and one to right)

Gary Plough asked the width of Lee Drive? Engineer Mr. Lowder suggested possibly 36'-40' to ROW. Mr. Plough said we may not need a light if the lanes are marked.

John Lotspih asked if the Police Chief had been notified of the delivery truck issues. Mr. Moore said no reason to complain as there is no solution other than the "No Parking" signs posted by Police Department that is ignored due to no other options for parking. It was suggested they may have to compel White Swan to give up gravel area and use that for trucks.

There were no further questions from Board, Attorney or Applicant.

Llew Ramsey, a realtor, having no vested interest in any way with the project, believes the project is a good thing for Atlantic Beach and it will increase the property value in the area.

Ken Jones, a resident of Pine Knoll Shores and owner of a rental mobile home at 111 Pinewood in Atlantic Beach. He drives through the neighborhood every day and wants to speak against the Dollar General going into a residential area. There is a traffic issue already and that is the wrong business for this area. They have one in Emerald Isle and if you want Atlantic Beach to look like Myrtle Beach then build the Dollar General and tear down IB&RC and build a Wal-Mart. Dollar Tree bought out Family Dollar and there is a huge competition between Dollar General and Dollar Tree, which is not needed in Atlantic Beach. What Atlantic Beach needs is a pharmacy.

There were no questions from Board, Attorney or Applicant.

Chairman Kurek asked Ms. Fiester if we can ask for a traffic light and she again stated the NCDOT has agreed to review this situation quickly however thought it best to wait until spring of 2016 for accuracy.

Elaine Moore, a tenant of the area at 105A South Court, stated she is a critical care nurse and is concerned about the safety of kids at the bus stop. She does not want to see a child or pedestrian get hurt and feels the Town needs a protection plan.

There were no questions from Board, Attorney or Applicant.

Chairman Kurek asked Mr. Beckom to explain how a deceleration land would affect the area. Mr. Beckom stated an additional lane would be required to provide that lane, creating more traffic and more safety concern for pedestrians.

Mr. Moore asked Mr. Beckom if the crosswalk could be moved to the intersection at the time a traffic light was installed. Mr. Beckom added that would be possible but he is most concerned about adding an additional lane to the mix. The study from the NCDOT will address this properly.

Joe Tarascio said if traffic is forced to stop it should be safer. The light would allow traffic to head east easier. The store will serve a lot of people and safety needs to be first.

Mr. Beckom again stated he believes an additional lane would cause additional issues. Site is somewhat impeded by vegetation now and will improve the sight distance situation for both areas.

Vada Palma mentioned that Harry Archer, Council member, is very involved with NC DOT and she asked that he participate with DOT and Staff on behalf of the Town, to which he agreed.

Chairman Kurek closed the hearing and moved forward with discussions amongst the Board.

John Lotspih stated that pedestrians have the Right of Way and citizens concerned about trucks parked in the street should be proactive and call the Police Department.

Chairman Kurek stated evaluations have been made and more to follow and no deceleration lanes were required. The expert on hand tonight seems to believe they will elevate safety concerns. Then the following areas were addressed:

The proposed use will have either a minimal effect or positive effect on the public health or safety;

Yes. Staff feels there will be no impact on public health or safety. The following comments are provided:

- *The development is only covering 44% with impervious surfaces and is incorporating two drainage basins and permeable pavement on half the parking lot. This is the lowest coverage of any commercial property in Atlantic Beach.
- *The development is required to add pedestrian flasher signage and sidewalks along all frontages, adding awareness to the pedestrian community.
- *The driveway permits ensure ingress and egress is to NCDOT Standards
- *The stormwater permit ensures development is to NCDEQ Standards
- *The Septic system permit ensures compliance with environmental health standards
- *The low level lighting will not impact adjoining properties or wildlife

The use meets all required conditions and specifications; (From Article 6)

Yes. There are no additional requirements for this type of request.

The proposed use will have no material adverse effect on the value of adjoining or abutting properties unless the use is a public necessity;

Yes. The proposed use is located between vacant land, across from a gas station and fast food restaurant, adjacent to a tennis facility at a condo complex and across from high density residential development. The development will be leaving a vegetated buffer around the project and is utilizing low impact lighting. It is staff opinion that there will be no material adverse effect on adjoining or abutting properties by this project.

The proposed use is in harmony with the Town Land Use Plan and/or other plans adopted by the Town Council.

Yes. The Land Use Plan has this parcel designated as "Mixed Use Residential "and low impact commercial development is allowed. A Land Suitability Analysis in the Land Use Plan has this area classified as "highly suitable" for development.

Further Requirements:

Proof of advertising in the Carteret News Times was included in the agenda packet for the Board of Adjustment meeting on November 16 and entered as evidence. The public hearing advertisement was posted at Town Hall on October 27 and on the Town of Atlantic Beach Website on October 27. The property was posted on October 27. A notice of the public hearing was sent by the UDO Administrator to all property owners within 500' of the subject property on October 23, 2015.

Chairman Kurek asked for a motion to grant this Conditional Use Permit Application to build a Dollar General in Resort Services and include any conditions previously agreed to. Vada Palma made the motion with David Cox second and the vote was unanimous.

Attorney Taylor suggests they clarify the "conditions" as the ones listed in the presentation as seen by the TRC, Planning Board and staff.

The applicant will be provided a written order within ten (10) days reflecting the determination and findings of this Board.

APPROVAL OF MINUTES

John Kurek made a motion to approve the minutes from the March 17, 2014 Board of Adjustment meeting. Motion was seconded by David Cox and Vada Palma and the vote was unanimous. Motion carried.

ADJOURNMENT

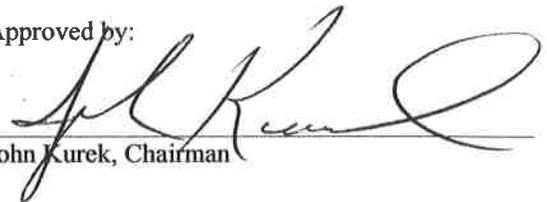
There being no further business, John Kurek made a motion to adjourn the meeting with a second by Vada Palma and David Cox, with a unanimous vote.

Respectfully Submitted,



Kim Tynes, Secretary

Approved by:



John Kurek, Chairman