



**Minutes
Town of Atlantic Beach
Planning Board Meeting
July 7, 2015**

Members Present:

Norman Livengood, Vice Chairman
Rich Johnson
Steve Joyner
Neil Chamblee
Curt Winbourne

Members Absent:

Ray Langley, Excused
Llewellyn Ramsey

Staff Present:

Jessica Fiester, Planning Director
Kim Tynes, Secretary

Others Present:

Jim Bailey
Mike Burton
Ron Cullipher
Ken George
Nathan George
Phil French
Mike Shutak
Jimmy Beckham

Council Members:

Harry Archer
John Rivers

CALL TO ORDER

The meeting was called to order by Vice Chairman Norman Livengood. Planner Jessica Fiester asked the Vice Chairman to call for a motion to excuse Chairman Ray Langley and Llewellyn Ramsey. A motion was made by Steve Joyner and seconded by Neil Chamblee, with a unanimous vote to excuse them.

APPROVAL OF MINUTES

Vice Chairman Livengood called for a motion to approve the minutes from the June 2nd, 2015 meeting. Steve Joyner made that motion and Curt Winbourne seconded it. The vote was unanimous to approve the minutes.

NEW BUSINESS

Recommendation to Amend Notification Policies:

Norman Livengood begins, "The third item is the discussion and recommendation of amending the notification policies which we hope make it better than what we have now."

Planner Fiester begins, "The Town Council asked that the Planning Board review changing our policies to provide notification to adjacent and nearby property owners when a major site plan that falls under Article 14 in the UDO, anything of that nature, is coming towards the Planning Board. Once that project has gone through the Technical Review but before it gets to the Planning Board, to provide notification, and also asking that we discuss posting the property to hopefully let people know that may be impacted by the site being developed but may not be within 500 feet.

Planner Fiester continues, "The language that is in front of you that is in red, which is the proposed amendment to 14.6.4 review and recommendation by the Planning Board, is certainly open for discussion. Right now it is written so that the notification should be sent at least ten days prior to the meeting. That is one item that you may want to discuss. We may want to increase that, it was listed at ten days simply because we try to keep projects moving through. A case could certainly be made to make it 21 days, 30 days... that's open for discussion. We kept the notification to property owners within 500 feet. That is what is required for a public hearing at the council. You can certainly discuss expanding upon that. Right now it is written that the notice that we send shall include directions on how the public may comment on the proposed project. You can certainly amend that and play with that language to actually require a public hearing, or to make a public comment session, or to suggest sending in written comments. That is all up to you."

Planner Fiester continues, "They ask that you discuss amending this and sending a recommendation back to them. The other thing that they did not ask for, but I am suggesting, is that we post the property when a project is being evaluated. Maybe not specifically date and time, but where people can obtain more information on that project, how to obtain it on the website, where town hall is located where they can look through a notebook like we have set up for this meeting. The council is asking you to recommend a policy that does provide earlier notice when a project is coming through so we can get our feedback earlier in the process than we have been getting it now. Hopefully streamlining the process to make it go smoother and incorporate those comments earlier in the review process. I will turn it back over to the Chairman to direct discussion on changes or if you like it written as is."

Steve Joyner asks, "I would like to know how long you are going to be aware of the major project in order to give notice longer than ten days. Is thirty days too long? Is it going to slow the thing down by a whole month?"

Planner Fiester answers, "The answer to that could be yes. When we go to the TRC sometimes things need to go back to the TRC and need to be worked out before they get forwarded on to this board. Once it gets through that process and we know the project is moving forward, anything longer than ten days would potentially push you back one Planning Board meeting. I think twenty one days is probably a good policy."

Steve Joyner then states, "I think ten days is not quite enough because you never know how the mail is going to run."

Planner Fiester adds that she was concerned with ten days as well. Steve Joyner continues, "You don't know if people are going to be down here or not. If the address it is sent to. I would suggest twenty days. I would make a motion to amend that to twenty days."

Neil Chamblee asks: "Question, if we have public comment and then send it back to the TRC and it comes back to us, each time we do that is it open for public comment each time?" Planner Fiester answers yes.

Rich Johnson then asks, "What's our standard for other public notifications for other properties that are subject to the Council?"

Planner Fiester answers, "Well when the Board of Adjustment goes through a conditional use permit or a variance request there's a streamline state standard that it has to be sent at least ten days but no more than twenty one days prior to the meeting. That is the standard on those meetings. For the public hearings at the Council the town has flexibility in setting that policy. We typically try to send it out two weeks ahead of time. That is not too early and not too late. You don't lose it you don't forget about it. That type of thing. So, this is up to us. This is not a state mandate. What we feel is reasonable and will provide us the amount of time to notify people to come and be able to make plans to attend if they wish to."

Neil Chamblee states, "I think this is a good idea. My assumption would be that public comment that is made here would probably also be made same comment at the Council, more than likely." Planner Fiester then states, "Or public comment that is made here could be incorporated into plans and then brought back to you again before it is sent on to council."

Neil Chamblee then asks, "Is there a value in us asking for at Planning Board not for the Council, but for the Planning Board, to have comments in writing prior to the Planning Board so that we would have time to review them and be better prepared to respond?"

Steve Joyner then states, "A lot of people aren't going to put their comments in writing. They would rather come and talk. I would suggest that we solicit comments in writing and also I think they should be able to stand up and say their piece. I think if we can function with a twenty day notice without incurring a great loss of time for the town or the project directly, that would be a reasonable period of time."

Curt Winbourne then adds, "Steve, I like that twenty days as well. I just don't understand why, did you say Jessica that after the initial twenty day period that say the public came in and spoke and made some viable comments that we took on advice and we made some changes that we would put it back out and there would be another twenty days period. Is that what you are saying?"

Planner Fiester responds, "No. Once you provide the notice, interested parties have the opportunity to come, and they will be here to witness what you have requested. They will be able to follow the project progress not unlike the Town Council can continue a public hearing."

Curt Windbourne states, "I think twenty days would be great. I think that is part of the reason we are where we are."

Neil Chamblee states, "I would ask if we are going to do twenty days that we should also ask if possible please give written notice. Not a mandate, but if you can give written notice it certainly helps to have it in advance."

Steve Joyner states, "I will amend my motion to that. Twenty days with a suggestion for written comment."

Vice Chairmen Livengood states the motion, with Steve Joyner making the motion and Curt Windbourne seconding. It was approved unanimously.

Planner Fiester then asks, "Do you all agree with posting the property? To make that a requirement. If you want to add additional regulations on that, such as when it gets posted? I would suggest to also incorporate the twenty days."

Curt Windbourne makes the motion to post property 20 days in advance which is seconded by Neil Chamblee.

Discuss Seaside Villas Modified Plans:

Vice Chairmen Livengood states, “We will move onto item number four.”

Planner Fiester begins, “Item number four: We have before us a modified version of the Seaside Villas site plan. The review process for this project has been reinitiated due to these modified plans. A new public hearing was called for by the Town Council at their last meeting. A TRC meeting was held on June 26, which three of you were present for. Also as part of this review process the new Planning Board review being held under what will likely become the new meeting model, which incorporates soliciting public comment earlier in the process. So, we will be trying that out tonight. It’s not been put in our ordinance yet, but we are going to be doing that.”

Planner Fiester continues, “The plan before you tonight is a result of public comments, a council work session, a neighborhood meeting, several small group meetings, written comments we have received, and also the input from the last TRC meeting. I just also want to note what was not in your packet. There are multiple documents that are associated with this project. They have been distributed throughout the review process. They have not all been recopied. They are lengthy, if you would like extra copies of those or you have misplaced them from other packets I am happy to provide them. The public can access them. The Clerk has a whole notebook full of them at Town Hall. Several of these items will be sent back to our Attorney Derek Taylor to review to make sure they are accurate and reflect any changes that may get recommended with this site plan if it gets moved on this evening. These items include the wastewater extension permit with Envirocon issued June 24th from DENR. Our public water system connection permit was issued on June 19th. The bylaws of the Seaside Villas were submitted on May 11th. The declaration of covenants and conditions and restrictions submitted by Kirk & Whitford and reviewed by Derek. The twenty five foot easement on the south side approved with Carteret Craven electrical co-op. The storm water redevelopment permit issued by the state on April 7th and also the initial waste water agreement which was issued on November 24th. All these are available at Town Hall for anyone who would like to look through them or get another copy.”

Planner Fiester then states, “At this point I am going to turn this over to Ron (Cullipher) he is the agent for Seaside Villas. He’s the agent for the applicant. I have asked him to review the plan specifically emphasizing parts of the plan that have been modified and why the developers feel that these modifications are enhancing the project. So, at this point we will turn it over to Ron. Ron, all of your elevations, renderings, your images, and your construction drawings are available. Just tell Kim which one you would like.”

Presentation of Plans by Ron Cullipher, Stroud Engineering

Ron Cullipher begins, “Sheet 1 – Site Plan. This reflects basically the majority of the information and changes that you would typically care about. We have taken those comments and provided some plans. I want to highlight what the changes were from the last project that you guys saw. The setbacks were adjusted through the public hearing process through the Planning Board and Town Council. We have reflected those setbacks on this plan. The TRC reviewed that. Simply our front setback is Highway 58. Our rear setbacks are the east and west property lines and our side setbacks are based on the north and south property lines. (Several inaudible sentences) In doing that reflection at the southern entrance of Dogwood that created a twenty foot different setback than we previously had before. We lost a unit there, basically a complex. That unit was actually moved to the far right over against Pelican. That used to be a six unit building and it is now a seven unit building.”

Ron Cullipher continues, "Some of the concerns were for the traffic congestions off Pelican. To kind of alleviate some of the concerns we have removed the access drive that was closest to 58 off Pelican. TRC and Fire Marshall were okay with that change the distance on the dead end segment meets the code requirements. Per some concerns about additional space between the property lines and the street right of ways some of the buildings were moved/shifted. The buildings closest to Pelican are 25 foot for those buildings on 58 and then 20 feet for the buildings parallel to Pelican."

Ron Cullipher continues, "Shifting everything kind of moves a couple feet here and there to accommodate all this. So, everything moves. The swimming pool complex was basically inverted and that allowed us to create some space for a tot lot which is classified as additional recreational space. That was done in that area as it was on the northeast quadrant of the property. It is kind of a shaded area that's on the street."

Ron Cullipher continues, "The open space requirement is 200 square feet per unit and based on our numbers the open space required is 14,200 square feet. The darker shaded area that is outside of the setbacks was 15,125 so we are slightly above the minimum required for that area. We went through a fair amount of discussion about building separations. All those shown on the site plan meet the requirements such as the ordinance currently has. The building along Pelican we have the parking lot on the Pelican Drive side. That parking lot is been mirrored so it is part of the internal circulation not to have a separate parking lot like it once had. The parking area up on the northeast quadrant was actually shifted a little bit to the west to accommodate that little play area. Essentially that's a general description of what's changed."

Ron Cullipher continues, "We believe that the site plan meets all the technical requirements have been adjusted. I think Kim there is a PDF of the green area on the colored version. This kind of shows the area that is not hard surfaces or covered with pavement. The green represents the areas that are vegetated and not impervious up to and including the edge of the streets on Fairview and Pelican and also Jungle Dr. Again, landscaping plans will meet the requirements for landscaping according to the town ordinances. All of the state permits for the project are in hand at this point in time. The encroachment agreement was the last document that we were working on and we actually have that in hand. So, if we are fortunate enough to get the towns approval then we are good to go on the permitting standpoint. If I can answer any questions right now I know you have seen this quite a bit. It's pretty similar."

Planner Fiester then asks, "Ron if you wouldn't mind just talking about the building materials and the look of the buildings."

Ron Cullipher continues, "The building designs have been prepared by Mercer Design Group out of Wilmington and these are wood framed structures, asphalt shingles, roofs with (inaudible), siding is predominantly vinyl with some hardy trim. The height of the building is significantly below what is allowed. I can't read it that far but it was 35 and change I think. We discussed stormwater aspects the last time and none of that really changed. There was a slight decrease in impervious surfaces with the flipping of the parking lot over by Pelican. (Inaudible sentences) Proposing to trim up the asphalt on Fairview so we can bring that up and fix the drainage there. Conceptually none of that changed. (Inaudible talking).

Planner Fiester then adds, "One thing I would add to your presentation: You had other eligible areas under the current recreational space that you could have counted that you only highlighted on there and calculated what you were requesting for credit correct?" Ron Cullipher answers, "That is correct, the criticism before is that there wasn't suitable recreational space and that is not what it is really representing, it's representing open space. To avoid being criticized I try to show enough of the space to satisfy the requirements." (Inaudible sentences)

Planner Fiester then states, “While Ron is up there I will go through some of our things that we discussed at TRC. Call questions upon him if you need to. I’ll confirm still that our zoning district is section five that is resort services and encourages this type of development and that multi-family and town houses were an allowable use to this district. Our density has not changed from our first review of this project. Ron is showing you the building design. I’ll let some members that were at TRC speak to that in a minute. Landscape as Ron pointed out, we have requested that portions of the 40 foot right of way on Pelican and 60 foot on Fairview be incorporated into the landscaping design. We had agreed to that. We do believe at the TRC level that 10.7, 10.10, and 10.11 which govern landscaping were being met and that was demonstrated on the plans. Our parking spaces were evaluated at the TRC there are 154 still with 6 handicap spaces in addition to that which exceed 9.1.4E3. We had discussed possibly eliminating some of the parking to expand green space. That was not reflected on the plans. The TRC did discuss doing that. The TRC did point out that parking lots over 25 spaces are required to have a bike rack. The TRC had requested under 6.2.17 that we only see the area they are claiming for credit and that they also provide us an image that show where the green space was even if it couldn’t be counted. That has been provided.

Planner Fiester continued, “The Police Chief and the Fire Marshall both spoke to ingress and egress and to the addition of the dead end. They did not object to that. The Police Chief did evaluate the additional intersections for safety. He also evaluated the intersections on Highway 58 not coming out of this project. He did feel that they met town and state standards. Our drive isles were evaluated by the Fire Chief for his apparatus the drive isles range from 20 to 24 feet. He was satisfied with that and did not request any changes during that review. Lighting plan was reviewed for section 9. This was still found to be satisfactory. I think Ron spoke to the setbacks we did have a great deal of setback conversation at the TRC level. If the TRC members would like to speak to that in a moment please do so. Our building separations were maintained. Marc did feel that the waste water and water plans were suitable as Ron stated the height is well below 55 feet. The stormwater management he spoke to was under the state redevelopment permit which he has in hand. They did add in the ground mounted signs on the plan at the entrances which can be seven feet high and a maximum 20 square feet a piece. I’d really like those of you who participated in the TRC to share any conversations you feel need to be presented here or ask questions of Ron while you have him available.”

Rich Johnson says, “I’d like you to go through the phasing plan. I know you’ve got a note about that on the application.” Ron Cullipher answers, “The intention I think is to start on building 50-53 which is the building just north of the tot lot. We will be doing the infrastructure obviously to get that as the first building. The building selection goes next it will be a building by building phase. (Inaudible sentences)

Rich Johnson asks, “How does the site work fit into that strategy?” Ron Cullipher answers, “Utility infrastructure certainly needs to be put in before any hard surfaces go over top of that. We will probably site grading for the bulk of the project and then we will do the rain tank installation and then build the buildings around the rain tank. (Inaudible sentences)

From the notes Ron Cullipher continued to talk about:

- Water
- Paved – stubbed off per section
- Attention to detail
- Pool in first phase

Steve Joyner then states, “Once you complete the first unit and it’s ready for sale how much of the project itself will be done? Other than the units how much of the street work, etc. will be left?”

Ron Cullipher answers, “Well the street work would be going to ensure that we are on the public road through the building of the buildings are complete so that they can actually exit out to the public roads not

driving on dirt or gravel. So we would start from west to the east and that would be the direction that we would go. (Inaudible sentences).

Steve Joyner continues, "People that buy these lots, buy these homes, what kind of rights are they going to have to be secure...(multiple people talking)." Ron Cullipher responds, "Those are probably expressed in those documents determines what gets dedicated to common space and obviously that pool area was dedicated from day one. (Inaudible sentences)"

Neil Chamblee then states, "So with the 15,000 with the first building you would have roughly the 12, 9 in place to accommodate that of the 15,000 the only part of the park area that your claiming is the dark shaded area which is the 800 square feet of that not the whole area. The whole area is common space." (Inaudible speaking).

Steve Joyner then states, "I was glad to see the changes made. Living right next to the fence and project. Certainly enhances it to me if I was buying it. Glad to see the changes."

Ron Cullipher discusses leaving the fence in the same spot that it is in.

Curt Windbourne then states "So we absolutely meet all the setback requirements that we changed in the UDO."

Ron Cullipher answers, "The change that we made are precipitated both 59 and 60 that was a building there that was outside the current setback so that's why we ask that the building be moved so that you can look at the diagonal that's where you showed that forty foot diagonal it keeps us within the setbacks."

Neil Chamblee then adds, "The only other thing that I would just mention is that the common area on the east side that juts out from the east side of the pool area if I did the math that's 550 square feet so really if that was taken out you still have the allotted amount. I had to rough it but I thought it was like 550."

Vice Chairmen Livengood then begins the public comment section.

PUBLIC COMMENT

Ken George said, "Kenneth George 104 F Pelican Drive here in Atlantic Beach. I do appreciate several things that have been done tonight. I appreciate the decisions on the notice I think that was a previous problem. I feel like now that I've gotten thick skin I was criticized for coming out the bottom of the ninth with two outs with some objections but when you get the letter at the bottom of the ninth then you hustle to get up as soon as you can. I also appreciate your discussion and questions tonight. The last planning board I came to Steve had a couple of questions and maybe there was one other question and nothing was discussed and I think that's partly why were back here tonight. I think if the discussion early and in front of the public also that's for the record lets us know where your coming from and the thoughtful questions that you have tonight also show that you are engaged which was disengagement last meeting and were back here again. I would like for it to move along as well. Specifically I had suggested the playgrounds and pool get turned around cause we thought it made a better area and I wasn't trying to be critical I was trying to say could be improved. I think that this is a much improved area. Also appreciate you getting rid of the driveway there because I think it was a safety issue going dumping into the stop sign. Lastly, things I appreciate the last being decreasing the amount of the pavement because of making the switches that does improve the costs and those concerned about runoff. Even though you handling the runoff in other places if your road goes downhill towards the roads if your building it up six or seven feet. Even if you have impervious at the top when the roads when you've got pervious other places it runs downhill. By making that one drive change that's going to decrease the amount of water runoff as well so I do

appreciate that. Two things I want to offer that we met with the Mayor out there and we are offering that Crystal View to give access for sidewalk to give an easement so that all these people, hopefully they all sell, and there's lots of people here on the holidays they will have a way to walk down to the surf shop without having the cross 58. I think that's important and we will work on the town on getting the easement. We don't want to tear up all the trees we got there to put it up on your right of way but we can let you have easement on the back side and leave the trees in place." Ken George then describes for the Board where this land is that Crystal View is willing to give as an easement.

Ken George then continues on, "Will have to put this to our homeowner's association but I believe we are willing to give up two parking spaces like you guys gave up some parking spaces, were willing to give up a few parking spaces to make that happen. We want to work with the Planning Board and whoever we have to work with to make that happen. But we want to enhance. I think the whole thing about the UDO. (Inaudible talking) It's not a family feel if you have to cross 58 twice with your kids to go get ice cream and we don't want that to happen. There's just too much, too dangerous of a road. The one beef I've got on the rush to approve the things you approved last meeting was on the doing away with the private drive setback you now have open space that is counted right there next to the road. In the original plans that you've seen so many times you had greenway setbacks. You didn't have them up next to the road like you do now and that curb in the road... (inaudible on the tape). The definition says recreational space your calling it open space. It says recreational space again because you adopted zero setbacks from a private drive because the Council approved it you now have recreational space next to the curb right up next to road and I think that's unsafe and I think that should not be counted. That creates a unsafe environment we should not be counting for recreational space. If you take that out then they don't meet the 200 feet per unit if you take that recreational space out. The new comment ill make because I lived the last hurricane as some of you did. I went around Pelican Drive and in the front yard of Crystal View collecting this hurricane proof interlocking vinyl siding that was everywhere and when we redid with the insurance money we redid our buildings because it blew the vinyl siding off even though it was interlocking and hurricane proof we put hardy plank siding. We are never going to have the hardy plank blow off so I would just encourage you for safety to keep the vinyl siding from blowing through the air like we had to put up with that you consider doing hardy plank in the construction and not the vinyl siding that may wind up in the middle of the street."

Nathan George, PO Box 2550, Atlantic Beach, NC -

Nathan George begins, "Good evening. Appreciate the time here to speak at the public hearing. I might not have spoken at this meeting before. I spoke at the council and the working session and you might have received some of my memos through meetings through e-mail. What I do, I am a developer so I understand what these guys are going through. I think it's really unfair that they have had to bear this constant change. I think the uncertainty is really hard to develop in if you don't know what the UDO is supposed to say and keep changing it so I feel for them and I have told them such and it's not really fair to them. I develop in Berkley, CA it's one of the most difficult places to build and develop. And a very detailed in zoning ordinance. For almost two months now though I've been emailing the staff since I got the notice here your staff and council volunteering my time pro bono to say look you guys have a lot of issues with the UDO the plan you are presenting here doesn't comply. I was told you have your interpretation and we have ours well were here now two months later still trying to fix it. I did get to meet with Miss Fiester twice, happened to be one time this morning and the other time was a few hours before the council vote on the UDO. I think were in agreement that there are some changes that even the four specific changes that were adopted created some issues. We would like to fix those but in the interests of expediency to push through those changes so that we could then vote on this project which still didn't comply because of that corner and had to get held up again for another month. I do appreciate some of the changes that have been adopted such as notice, public hearing, a sign posted at the site, but it shouldn't take over a month and multiple e-mails and me hiring an attorney and doing a public records request to

get one way communication to become two way communications with the council. So, I will provide at the Council meeting a timeline of that communication from Mr. Shutak here. I know that some of the Council Members at the end of the last meeting were quoted heavily with some righteous indignation about that and you know I spent a lot of time and money out of my pocket to deal with this to get a response and I shouldn't have to go through that. As a result, four specific changes to the UDO were brought fourth and voted on. Mr. Briley himself said that in the same meeting that they voted on those four changes we had a lot of issues with the UDO and we need to fix all these and we need to set up a special hearing to go through these. Miss Fiester told me this morning went over the list there's a litany of issues that you guys are going to have on your next agenda to go through and try and fix the UDO. I am open and my time is open to spend that with you fixing them. On the same night that we admitted there were problems with the UDO we adopted four specific changes which we felt would accommodate and fix this project which actually had created other issues. This project still doesn't comply with the existing UDO. I have stated that there are a number of other issues with it. I think Mr. French has a long list as an attorney that I haven't even gone through. I think it needs to be a little more than eleventh hour communication every time for us to try to make these changes and adopt them. You'll look at the e-mail from night after the May 18th hearing saying let's get together and work these things out. I didn't hear anything for over a month after a month. So, I would just encourage you to encourage council and staff to work with us to adopt these changes that are needed. So we can make this project and I have said we want to make sure it goes through as quick as possible. I'll take any questions and once again I appreciate your time."

Steve Joyner asks, "Where is it non-compliant?"

Nathan George responds, "I think there's a few we've brought up already and Mr. French has laid out several in the last council meeting. So, I think there is. I mean I don't want to go through all of them right now, but I mean, I'd like to do that not at a public hearing and be able to sit down and work with the developer and staff and go through those till we get it right instead of doing it all here over the counter."

Phillip French begins, "Phil French, 509 W. Boardwalk, I had to apologize I have a splitting headache, cold, and difficulty thinking. I sent at least one e-mail that you guys have probably seen but my biggest problem is I don't know what's going on here. The UDO was amended but one of the requisites for amending the UDO at the last council meeting they provide a letter statement as to whether the action is consistent with the adoption of land use plans. Explain why the Board considers the (mumbles). They had one in the packet but they never voted on it. It didn't say anything basically except gosh we meant to do this before and now were making up for the fact that we screwed up then, which is not really what is the statutory requirements and there is a state statute on the point. It requires it. So, I'm not sure whether you have the 25 foot setback all the way around or when the amendments that were made at the last meeting are valid, certainly since it violates state law you got a question mark."

Phil French continues, "Number two: I don't understand what you've done in making some of your amendments. I'm going to draw your attention particularly to 6.2.15 that talks about measuring separations from front to front, front to side, front to rear, from side to side, rear to side, and rear to rear. Which is fine if you are talking about a building but it also includes what you define as a structure and you define a structure as I will refer you to page A45 of the UDO, anything constructed or erected for the use of which requires location on the land or attachment to something having a permanent location on the land. But, interestingly enough the bylaws of corporation and network for this mess who has the wrong units by the way. (mumbles) They define it as including driveways, parking lots, and things like that which is accurate because that's exactly what the UDO says. Well how do you get these rear to rear and separation standards to apply when there is no rear or side on the sidewalk or on a parking lot or on any buildings are actually in there. Makes absolutely no sense."

Phil French continues, "I understand that people want to do something about correcting the UDO and maybe we shouldn't enact things in a rush when it doesn't make any sense. And, I will point out one other thing that bothers me. This is the property line (mumbles, walks away from microphone)."

From notes:

Property line should be 40'
Don't understand,
Zoned R1-7 – can't comply

Phillip French continues, "You can't have compliance with that setback. There's no way to do it and again I'm referring right back to section 6.2.18 I'm sorry .15. Please don't ask me to replace this list (mumbles)."

Phil French continues, "I'm going to give you one more just to think about 7.5.2 general requirements for all buildings. Primary entrance should be architecturally and functionally designed on the front façade facing the primary public street. See the front façade of the principal structure should be parallel to the front plot line and street. I feel sorry for the builder to except for one thing if I can read the UDO and don't get paid for it why can't they come in here with plans that make sense. Once you start to make those changes everything disappears. You don't have enough recreational area actually you don't have enough recreational now because your wrong on some of the setbacks. (He walks away from microphone and is inaudible)"

Phillip French continues, "Now, do I care about the recreational area? I'm not going to buy there okay. What I do care is number one it doesn't fit your rules and number two I do believe there is a reason to protect the small town family feel of the community. Protect the existing uses and densities and intensities. Is it a primary purpose of article one of the UDO and I know I've used my four minutes."

Vice Chairmen Livengood interjects, "I've heard this lecture before, and I don't want to hear it again. I think most of the people here have already heard this at town meetings or council meetings."

Phillip French responds, "You mean someone else has told you that the building setback standards that you have set forth in UDO don't make any sense? Most of those buildings don't front on the primary street the way the UDO requires. Someone has already told you that? You'd allowed these before. I am assuming that you misspoke."

Jim Bailey, 517 E Ft. Macon Road, Atlantic Beach, NC-

Jim Bailey begins, "Thank y'all. I'm Jim Bailey one of the developers. A couple of things I just wanted to point out. Ken George talked about us building the property up six or seven feet that's not correct. I think it's maybe an average of 18 inches so it's not going up six to seven feet. I think he just misunderstood something but I wanted to correct that." (Ken George says something from the crowd) Jim Bailey continues, "Mr. George that is not correct. We've attempted to meet everything within the UDO within the intent of the UDO we've gone above and beyond the minimum in everywhere we could. We have worked very, very hard to listen to everything and I will say that what Mr. George, George's, some of what they said have improved the project. I give them credit for that and I don't want to take that away from them because I think this layout is better. It does have the building setbacks from the sides are way more than they have to be and we have done that to improve the project. We have done everything we know how to get above and beyond everything that has been required and to create an excellent project. We will be building it in phases we will do everything we can to minimize the impacts on the people in the area where they have bought from us or are already there but there are certain requirements that we will have to meet and we will do those things as best we can. I think the recreation area, open space area debate we've kind of had that for a lot of months here. There areas that we can't count within the

technical part of the ordinance that in effect will be open recreational space. That's just the area in the northeast there that's not heavily shaded but lighter shaded that's effectively going to be recreational area that can't be counted. There are areas like that where I think we have gone above and beyond so I do think that effectively we are way above it technically we meet it and then some. We haven't attempted to count every little half foot or so which we could, we are entitled to but we didn't. I don't understand the statement that we don't comply with the current UDO I just do not understand that. When pressed I didn't hear the explanation of that from anybody. I do think that the property across Jungle Dr. Jessica if I'm not mistaken that is zoned RS is it not? So, I think it is incorrect to say it's not zoned the same, it is zoned the same and we do own that. I mean I think the setback that shown on the rear is appropriate. Anyways, I thank you I will be happy to answer any questions. Thank you, we appreciate your patience and your time and effort cause y'all all put a lot of effort into this."

Nathan George speaks again, "I'm not disagreeing with the developer. There are some things that make sense but like Mr. French said it doesn't, there's an issue whether or not it makes sense or whether it applies. For example the changes that were adopted actually complicate things and actually we would prefer just like the developer would prefer to have this unit right here instead of having it over here but because of the way it was adopted (Nathan George walks away from the microphone, inaudible). The other issue the way Mr. French pointed it out is basically I could own this, I could buy a strip of land and develop it across the street that's not RS and say okay now I own a strip of land take my setback from there because I own a strip across the street therefore my twenty five foot setback doesn't make sense. (Inaudible talking)"

From notes:

I'd like to fix this

Fix piecemeal and create more issues

Vice Chairmen Livengood says, "With a recommendation we can send it on to the council. I guess they will have a public hearing there too won't they?" Planner Fiester answers, "Yes, they will be having a public hearing in July." Vice Chairmen Livengood continues, "Public hearing in July you all can express your thoughts with them."

Steve Joyner states, "I would like to say that I would recommend that this be sent to the council with the recommendation for approval providing it meets the legal requirements of Atlantic Beach, to be determined legal counsel or appropriate town (inaudible)."

Planner Fiester states, "I would like to have written comments of all the areas, I mean they have put so much time in this for us and assisting us to see specifically what else could be out there that they don't feel meets this and make sure that the Council sees that."

Steve Joyner then states, "We like the plan. Basically our interpretation is not necessarily the only interpretation of the UDO even though we were involved in it. It has to be interpreted by an appropriate legal interpretation. I mean, there is no other way to say it; it has to be and to make it right the town is responsible to seeing that it is right. So, I'm saying as far as the Planning Board is concerned, I like this plan as it sits irregarding the legalities in my opinion. Recommend it to the Council based on its being in compliance."

Neil Chamblee then states, "Based on the TRC and everyone that was in the TRC and everything we did, I believe it is in compliance." Steve Joyner then states, "I do too, but I can't make that decision."

Curt Windbourne then states, "I think I asked that question already and I think your opinions from the TRC was that it was in compliance (inaudible)."

Steve Joyner then continues, "Some of these things were brought up that Mr. French brought up. I just feel like it's up to the Town Council. I want to recommend the plan as it is but I want to have a statement in there saying that it is in compliance. Let them determine if it is in compliance. Also, I don't think were obligated to make a legal determination. The Technical Review Committee states that it is. In there, I agreed with them and statements that they made. So, that is my recommendation." (Many people begin talking at once).

Neil Chamblee then states, "Isn't that automatically a legal review by the Town Council with the Attorney? I mean isn't that sort of a redundant statement?"

Planner Fiester answers, "The town attorney is more concerned with the associated documents than he is with that site plan."

Curt Windbourne motions, "I would like to motion that we approve the plan as shown , based on what I've heard, with no caveat, and no attachments, because I think the work's been done to the best of our ability. We've had the TRC we've had Jessica, I mean I just haven't seen anything that's swaying my opinion. There have been lots of improvements. I do think it's a better plan and I don't think that we need to be talking get to the point where we debate every word and (inaudible)."

Neil Chamblee then states, "If that's the motion I second that."

Curt Windbourne then states, "I move that we accept the plan as presented."

(Many people speaking at once)

Curt Windbourne states again, "I move that we accept the plan as presented and send it to the Council." Neil Chamblee then seconds the movement. A unanimous vote passed the motion.

ADJOURNMENT

Being no further business, Norman Livengood called for a motion to adjourn the meeting. The motion was made by Neil Chamblee and Curt Winbourne. The vote was unanimous.

Respectfully Submitted,



Kim Tynes, Secretary

Approved by:



Ray Langley, Chairman