



**Minutes
Town of Atlantic Beach
Planning Board Meeting
June 2, 2015**

Members Present:

Llewellyn Ramsey
Ray Langley, Chairman
Rich Johnson
Steve Joyner
Neil Chamblee
Curt Winbourne

Members Absent:

Norman Livengood, Excused

Staff Present:

Jessica Fiester, Planning Director
Kim Tynes, Secretary
Derek Taylor, Town Attorney

Others Present:

Jim Bailey
Doug Brady
Ken George
Eddie Briley
Harry Archer
Zulene Wooten
Phil French
Douglas Brady
Lori Tatum
Others, unknown

CALL TO ORDER

The meeting was called to order by Chairman Ray Langley. Planner Jessica Fiester asked the chairman to get a motion to excuse Norman Livengood. A motion to excuse Norman Livengood was made by Llewellyn Ramsey and seconded by Curt Winbourne, with a unanimous vote to excuse him.

OATH

An oath of office was administered to new member Richard Johnson by Planning Board Secretary Kim Tynes.

APPROVAL OF MINUTES

Chairman Ray Langley called for a motion to approve the minutes from the April 7, 2015 meeting. Steve Joyner made that motion and Curt Winbourne seconded it. The vote was unanimous to approve the minutes.

NEW BUSINESS

Chairman Ray Langley said “at this time I will call on our town attorney Mr. Derek Taylor for some comments from him.”

Town Attorney, Derek Taylor said “Pleasure to be with you tonight. It’s an unusual occasion that I would attend this particular meeting, but we have unusual circumstances leading to the subject matter that you will be dealing with this evening. Some or most of you were at the last town council meeting when the council had the project before them, Seaside Villas.”

Attorney Taylor continued, “At that meeting there was a presentation by those in opposition to the plan as submitted, and it was brought up during that meeting that there were certain things in our ordinances that didn’t seem to be correct in the way that they were being applied to that particular plan. Because of that, the Council decided some valid arguments were made, and our ordinances need to be examined as to what the real intent for them was supposed to be for developments of this type. They decided to hold open the matter of approval for this particular plan that was presented until this (planning) board could give consideration to some of those things in the ordinances that might need amendment. That is up to you to determine tonight, and these things will be introduced to you by Jessica as to what those matters are. It’s primarily related to setbacks if you were to summarize it generally.”

Attorney Taylor continued, “So, tonight’s meeting agenda will be attempting to accomplish two purposes. One of them is the general purpose of looking at the statutes or ordinances and determining whether or not they are in the current form they ought to be, or whether some change ought to be made to those ordinances. This is not for this Seaside Villas plan, but across the board for every single multi-family and frankly any large project that’s going to come before this board in the future, and before the Planning Department. Are the ordinances the way they are supposed to be?”

Attorney Taylor continued, “Some of the problems may well be related to the legacy of what the old ordinances used to say as they rolled over to the UDO. Frankly, most developers will tell you there hasn’t been a whole lot of importance to try and have a lot of development since the ‘great recession’ as it is sometimes called. This is just now beginning to come before this board for determination as to whether the plans actually fit the ordinances and were kicking up a few snakes in the process. So, item one will be for you to deal with these ordinances and to decide whether they are fine the way they are or they ought to be adapted to what the true intent of the town is regarding developments of this nature. It needs to be across the board, concerns of every development that come before you, not this project. This project just happens to have kicked up those snakes so we can now identify some of the problems that may or may not exist in the ordinances, that will be what you have to discuss tonight.”

Attorney Taylor continued, “If you make those ordinances changes, the second process is you have approved the plan as it existed with the old ordinances. If you make a recommendation for ordinance changes, you will need to indicate that the plan is approved or disapproved under whatever changes you think are necessary to the ordinances tonight. So, you would therefore approve or disapprove, and if you approve it would be a conditional approval upon the Town Council making whatever changes are necessary that you recommend, or something like it as to the issues of setbacks. Are we in understanding of what the process is?”

Chairmen Ray Langley then asks, “Anyone have any questions for Derek?”

There were no questions for the attorney.

Town Attorney, Derek Taylor then says, "Tonight we have had some folks from the development which is actually on the side of it somewhere, in the vicinity of the project that was actually proposed. The same people that actually made a presentation to the town council at their hearing are here tonight and are actually on the agenda to be given an opportunity to speak to the same things they spoke to the Council about, so that you will have the same background if you were not at that meeting as the others that may have been there. In fairness, even though not on the agenda, once that has been done it would be reasonable and fair; and this body should always be as fair as possible, to allow the developer to address any of those issues as well after that presentation. That will set the stage for what the problems are. Then we will go into the ordinance changes and what changes you want to make. What has been suggested by the Planning Department is to tweak those things based on all development projects, then we will talk about the project itself. We are not required to have public hearings but there's at least one speaker and I would suggest the developer have an opportunity to speak in rhetoric or in explanation as well, and after that it is entirely up to this Board whether or not you will receive or request information from anyone else during the process. Any questions about that?"

There were no questions for the attorney.

Chairmen Ray Langley says, "To echo some of Derek's statements, as a general rule the Planning Board does not take public comments, but due to the circumstances as you have said, we will be hearing from Mr. Ken George tonight. He's the President of the Crystal View Homeowner's Association. Mr. George, if you would like to come forward, hopefully you can wrap up within about ten minutes and hopefully you bring some new information to this meeting tonight. If you will come forward state your name and address for the record."

PRESENTATION BY KEN GEORGE

"I'm Ken George; 104 F Pelican Drive in Atlantic Beach is my address. I would ask because I just heard from the Town Attorney saying the developer is not on the agenda, and in fairness putting the developer on the agenda so he can respond, I would ask before I start, in fairness, if I have an opportunity, I would also then like to come back after the developer speaks, because if there are some things that I believe are misstated or erroneously characterized from what I've read, then I would like to respond to that.

Chairmen Ray Langley answers "We may or may not allow that, we'll see at that time."

Ken George continues, "So, which of you were here for the meeting when I presented before? (Neil, Rich, Ray, and Steve raise their hands) So, the information that I have I would like to present tonight. I first would like to say that on the record and I know this is being recorded and transcribed, is that if any way in talking my remarks made last meeting about the Planning Board or about the Technical Review Committee when I have expressed that I was amazed that it would have unanimous approval seeing that there was a problem with the ordinance, I want to apologize for that. My remarks weren't aimed at anyone individually; my remarks were aimed at trying to get the goal of stopping the process to look at it more closely, to actually get facts on the table rather than to crunch headlong into something that was in violation of the ordinance. So, I do apologize if you were there and you heard those remarks then I hope that you will understand and accept my apology."

Ken George continues, "I am here tonight to work in a spirit of cooperation both with the town and the developer and I believe we can do that. There are several issues which I would like to address which go to the quality of the development. The Planning Board has in its purview and stated in the town ordinance that you have leeway in perhaps for instance in recreational space. You may request more than the minimum required based on the quality. You are not hemmed in by an ordinance that says we have to

vote for this yes in the affirmative if it meets the letter of the law. You are not in that boat. You are a Planning Board. You have the ability to make an exception to that.

Ken George continues, "Now after an hour long conference call with the Mayor on Friday, and an hour and forty-five minute meeting with him last night on the site, here are a few takeaways for me that I would like to bring up. He did make it clear that he felt quality over quantity was an issue and should always be addressed in the town going forward. He said he addressed you guys as a group back in January. I wasn't here; I didn't go back and read the minutes. What he had expressed, maybe it was when you started to the new term, but I think he referenced January, saying that he thought quality was something he wanted you guys to look at, not just quantity. He gave examples of where he had addressed some of you individually or as a group that said that the code was technically met perhaps, but the aesthetics looked wrong, like something that was down at the circle. Maybe two buildings were really, really close together and you didn't really like it, but the code said it was okay. Of course the council can vote and do what it wants to do on those issues. But he wanted you to address the quality and say maybe they need to go back and look at it, maybe they need to go from five-feet to ten-feet even though that alley looks mighty skinny and even though it technically meets the fire code you may want a ten-foot alley between those two buildings. He made that clear that was one of the takeaways. "

Ken George continues, "He (Mayor Cooper) also made it clear to me and to the group that was there that met last night that he would like to see it codified so that there was an opportunity early earlier in the planning process for public input and for draft proposals to be made by developers in the future. I find this very disheartening to me, as it was characterized to me from someone at the town that 'we came in at the bottom of the ninth with two outs and it was late in the game'. Well you designed the process. You designed the public comment. You didn't have a seventh inning stretch. You designed the process so that at the last time ten days before it was to be voted on the neighbors got notified. And it wasn't even all the neighbors; it was those that you technically had to notify that was within five hundred feet.

Ken George continues, "He (Mayor Cooper) also expressed last night, and you can have him tell you all these things on your own, but I think this is important for this to be heard, that just because five hundred feet is the minimum that you are supposed to notify the neighbors there are neighbors all the way to the end of the street on the sound that are going to be impacted by this development and they weren't notified of the public hearing. So people didn't even show up at the public hearing perhaps because they weren't even notified and there maybe seven hundred feet away. There is no outlet except Fairview and Pelican. So, all those residents on that street have to come out by this development. So there was no opportunity in your process until the ninth inning with two outs and that's why we're here tonight. Now were in extra innings tonight."

Ken George continues, "I think several things need to be addressed all of which deal with quality. First off, the setbacks. You're going to hear a lot about setbacks. Setback is defined in the code in the appendix, and a front setback is defined in the appendix as any road frontage. It's a road front setback so in this particular project there are four fronts. I know initially it came up that they wanted the front to be on Fairview so they had the side on Fort Macon Road. Well why is the address Fort Macon road if you are going to put the front on Fairview? Well there is signs for the development and the plans you approved the signs for the development are on Pelican and Fairview. There are no signs on West Fort Macon Road so, it looks to me like simply they said 'oh it's more beneficial to us to call Front Macon Road the front so we can squeeze it out closer to the edges on these smaller streets and that was their goal; to get more units and squeeze it out on the edge on the side streets. But the code's in place for a reason and I looked across the code and I know right now we when I looked at the whole map that I got was little I tried to blow it up as big as I could on my laptop. We don't have very many places at all that this is going to impact. We're dealing with three roads or four roads setbacks to a parcel you basically would have to demolish existing things. I know some things are scheduled for demolition but when you look at

those places that are scheduled for demolition they basically have one road front. The old Food Lion there is one road front. What you do tonight is not going to have any effect. If you decide you are going to change the setback and you decide to change the setback to say we want to have side setbacks and you let the developer decide what's the side and what's the front and what's the back and we will let them pick what's most advantageous for them. I don't think that's the intent of the ordinance. The ordinance is to consider when you look at a road front and I know Steve is on the road front because were on the same road front."

Ken George continues, "When you look down the road if you go to Pelican Drive right now and look down the road all the houses are lined up on Pelican Drive about twenty five feet back from the setback. They are all lined up in a row all lined up just lined up almost like row houses. They are all lined up in a row they are all the same distance back from the road. So, now you are going to say we're next to that development, but because we have zoned this different we are going to push it out five yards closer to the road so when they come out in their front yards in the mornings they look up to the right and they see the back of some buildings or the sides of some buildings. They won't have the same view that they've had because you said we can let them encroach on the road setback.

Ken George continues, "It also causes an issue from the standpoint of the code written for setbacks also has other reasons other than just for the aesthetics of the setback for the people down the street. Traffic is traveling closer; people will be driving five yards closer to the windows and doors of those units so there's noise issues. There is a safety issue. When you have a setback that is ten feet from the road and the developers have chosen to put recreational space the eleventh foot and twelfth foot away from the road setback then you could potentially be calling recreational space at the end of a building ten feet from the road right of way. We know it's up on a hill and they are going to build it about eighteen inches higher, I understand about eighteen inches further up. So then bicycles, tricycles, whatever big wheels, whatever kids have these days are going to go down towards the road. They are five yards closer to the road then the law currently allows based on what they proposed. With a thirty five to a fifty five foot possible (height) and I know this is only thirty five feet, but if you consider changing the ordinance to allow a ten foot setback on an arbitrary side whether it's on a street or not then you are potentially allowing a fifty five foot condominium ten feet off the setback by the road where you have got shade and shadows and basically a development that close and that high ten feet from the road."

Ken George continues, "Now, in dense urban areas typically what they do in a setback rule and you consider setback rules is they typically say for x number of stories or x number of feet here's your setback. If you go three stories you are set further back, if you go four stories here's your set back, and the reason that they do that is for life and quality. Because when you come ten feet from that road there is not going to be sunshine on that road much past noon when there starts to be casting shadows on those tall buildings on the road. So, then you have got issues of ice melting in the winter and things like that. So the whole idea of road setbacks or property line setbacks are for quality as well as aesthetics. Because there are so few other places that has the issue then even though it has been said multiple times this is for this one and those going forward and we haven't tested it yet. I want you to consider that when you look at all the other lots and all the other potential. I want you to see where there are white roads bisecting or drawing through the orange areas. There are just a few and they are already densely developed. Now with the Peppertree or whatever is going to be demolished there is another issue but there's not roads all through there like there are here. So, in effect even though you say you are making a decision for all future ones you are also all here tonight, let's not mince words, words matter. You are here tonight because what you did in approving their plans did not meet the ordinances. The town ordinance said there should be a setback of twenty five feet from every road. You approved it with ten foot setbacks on the sides. Closer on the back because of the issue of a fence on the back so it didn't matter as much on Jungle Drive but definitely on Pelican and Fairview. You approved something that did not meet code. So, now we are back here tonight so if you change the code to enable them to build on this area. You run the risk

of being accused on spot developing or spot zoning. That could tie this project up in the courts, it could tie it up for months and years if you decide to vote on something and you are going to have your counselor tell you what he going to council with you and tell you what he believes. We have also engaged attorneys and we have what we believe will be from our standpoint that this is certainly a potential for spot zoning litigation.”

Chairmen Ray Langley states, “Mr. George you are past your ten minutes. So, if you will please wrap up as soon as possible, but not to take away from the presentation.”

Ken George continues, “I’m two thirds of the way through. Appearance, I want you to imagine driving from Pine Knoll Shores and coming up the island from the other way and when you come to the edge of Atlantic Beach this is the first thing you see from Atlantic Beach. You are going to look over to the left and you are either going to have ten feet setback from Fairview which they are going to narrow, make Fairview narrower so it’s not going to be ten feet from the existing setback but ten feet from the right of way which I believe is a sixty foot right of way. They are going to be building anywhere from twenty five to thirty five feet right there with that small line and I think that is an aesthetic problem as opposed to being a corner where you...(Tape stopped recording)

Ken George continued to talk about the appearance of the property and stated that their goal was to put their best foot forward. They want to make sure that it stays attractive long after it is built. He also brought up recreational space. He brings up that the recreational space of this development is fine, thin strips of land around dumpsters which he says “tell you they are getting every square inch possible.” (He then shows drawing he had brought with him of the recreational space). He believes that the definition of recreation space is not good and that there is a problem with the amount of recreational space that this development has. He states that in the code they are able to require a development to have more recreational space if they deem it is necessary.

The last issue that is brought up from Ken George is traffic which he believes is a safety issue. He brings up that if three cars get backed up at the stop sign, then cars would not be able to turn into the development causing traffic to back up onto Highway 58. He also states that the same thing would occur on Fairview but instead of traffic backing up the cars would have to wait to turn left. Another concern he brought up was the lack of a sidewalk on the side of 58 where the development would be located. He complained that people walk across Crystal View’s septic fields and lawn and break the heads off sprinklers. A sidewalk would allow for residents to easily access the businesses that are also on the same side of the road. He said that the Homeowners Association for Crystal View was willing to give the town an easement to build a sidewalk.

In his final wrap up he voiced that there were two things wrong with this development; traffic and visual aesthetics. He then states that he has redesigned the plan which includes different driveways, more open interior space with this space bordered by buildings, and more recreational space including a playground. All of this he states would result in a loss of eight to ten units or less. He concludes with asking if there are any questions and thanks the Planning Board for their time.

There were no questions from the board.

PRESENTATION BY DOUG BRADY

Doug Brady states, “I am with the development team. My address is 805 Front Street in Beaufort. I think we are here to talk about the setbacks and how the ordinance is read. Our issue is that we have been working on this project in some form or fashion with the existing layout, whether it is condominiums or townhomes, for about two years. So, for someone to not know this thing existed, or know the layout, with

as many times as site plans have been in front of the various boards --I just don't think anybody has been trying to keep it from public view. We have worked with the town on a project that we think is a great project. It meets or exceeds the ordinance as we see it, or as it was interpreted by the Planning Board, the staff, and in prior iterations, potentially other (previous) boards."

Doug Brady continues, "I just have to say we have a quality project. I dare say if we were to put ten Crystal View Townhomes on that site that the neighborhood or lots of you would say, 'that's going to be about the most unquality project there could be.' These are townhomes and they are good looking. We have worked hard. They are going to be a very nice project, something that we are going to be proud of. I am just here to say that this kind of front on a quality project, I take a little bit of issue with, but that's not what were here about tonight. We're here about the setback issue."

Doug Brady continues, "We worked hard on the project. We are proud of the project. We worked in conjunction with the town staff, with the town Planning Board, and with the technical review committee. We appreciate all that work, and again, we think it's a very quality project that meets or exceeds the ordinance or what we thought was the intent of the ordinance. Thank you very much."

INTRODUCTION

Chairmen Ray Langley says, "Before we move into the next item, for the sake of the audience, in case someone here is not really familiar with the Unified Development Ordinance, we call it 'the UDO'. This was a document that the Mayor and Council in 2008 decided we needed. We needed to look at the town ordinances get them in proper order so they would be user -friendly and to define and redefine the items in the original ordinances of the town. After thirty-some-odd meetings with eighteen of us involved, we put a document together with the help of a consulting firm. It was recommended to the Council and in August of '09 was adopted. At that time it was new. We readily said it was a living document and there would be times we were sure in the future that we would have to go back, clean up some ambiguities, make some clarifications, and make some text amendments in order to make this document what it needed to be and what the intent was."

Chairman Langley continued, "So, we find ourselves in that position tonight. This is not the first time we have gone back and made text amendments and cleaned up some items. It's nothing new to us up here as the Board, nor is it to the Council as we send our recommendations. In having said that, I do want to remind the audience that the Planning Board makes recommendations only. We do not give final approval on anything that is under the Councils purview. We base our recommendations off the interpretations of the intent of the ordinance as we see fit. We didn't realize that this was causing so much confusion."

Chairman Langley continues, "Most of our tasks tonight are to eliminate some of that ambiguity that has been presented to us. Discussion tonight is different than last summer's that made changes to allow townhouse construction. I say that to reiterate that we are making some amendments to this document all the time. It will continue to be a living document forever. I don't think it will ever be perfect for everything and every situation and every clarification. I just point that out as we move into the discussion on the text amendments."

AMENDMENTS TO APPENDIX A

Chairmen Ray Langley states, "Item number six is a review of potential amendments to Appendix A. Jessica I turn that to you."

Planner Fiester begins, "Thank you. On our map back here (points at the official zoning map on the wall) is the Town of Atlantic Beach official zoning map. The zoning has not changed since it was adopted on

August 24th, 2009. When you look at that zoning map, all of the parcels that are in gold are zoned resort services. In that zoning district (resort services) a multi-family project is eligible to go through the process for approval. Thirty two of those (parcels) that are zoned resort services are adjacent to a residential district. That is important to keep in mind when we are going through and looking at our ordinances. There was a lot of attention when we went through creating the UDO of paying special attention to setbacks and things, since we knew we were a dense area, and we knew we had commercial (uses) and higher density (residential) abutting that lower density residential.”

Planner Fiester continues, “In addition to the thirty two parcels that are resort services that are adjacent to residential properties, there are fifty parcels that are zoned resort services, possibly more, that are also subjected to state CAMA permits. In that case there is even further restriction on the development of those lots.”

Planner Fiester continues, “The first thing that came up when we were presented with the ambiguity at the Council meeting was that we had the definition of a front setback (in the appendix), and that front setback (according to the definition) was to be measured from every street. So, one of the things to do to fit with the way that we have been interpreting this, and the way the TRC has gone through four sets of plans and interpreted it, was to use what we have learned from that and ask ourselves’ how do we want to be applying this in the future?”

Planner Fiester continues, “It also came up in the last council meeting that there was some confusion and unusual definitions involving driveways. Those have been presented to you in a way I think is much clearer and we’ll get to those momentarily. In addition to the standard setback definition, a project needs to have a front. It is not always as easy as just saying ‘well you measure the front from the street’ because there are plenty of cases where that should not be the case. Like I said, we’re in a dense area. It was developed decades ago. There’s a high volume of thru-lots and a high volume of corner lots and the definitions we are discussing are applied everywhere, not just in certain projects.

Planner Fiester continues, “The town has a precedent of amendments to relieve properties of the burden of being located on multiple street frontages that does not correlate with the current definitions and policies that we have now. In the R2 and RMU districts last summer, on corner and thru-lots we changed the ordinance so that owners can select a front. We did this because we had three variances applied for for this very reason. It was making redevelopment impossible. It’s important to have a front because it dictates how high you can build a fence. It’s important to know what the front is because the setback exceptions listed in Article 2 require that you know which side is the front. It is important to know the front because in certain cases it’s required a developer put a sidewalk in on the front. This is not required on other sides. So, for those reasons I do think it’s an important for us to designate one front.”

Planner Fiester continues, “The definition that has been suggested in front of you, ‘the *shortest horizontal distance measured from the property line on a public roadway selected to be the front. When a property is on an NC DOT road the front setbacks shall be measured from that road.*’ does several things. First, it suggests that it is in the best interest of the town to require that a state road be the front when applicable. This covers the additional utility issues and safety issues that are commonly associated with NC DOT streets, and that seems logical. Furthermore, our current ordinance says that a rear setback -- it implies it is anything other than a front setback. To me that really needs to be cleaned up. The language currently seems to suggest that if there are two front setbacks you don’t have a rear setback. That has been struck in the amendments that are proposed to you. I feel there is a benefit to having a rear setback, whether something is on a corner lot or not on a corner lot, and I’m not sure there would be a benefit of keeping that definition as it’s written. Furthermore, the selection of a front setback as it is proposed will dictate the rear setback as the opposite end, and then the two side setbacks will fall into place.”

Planner Fiester continues, "The last amendment here is the definition of a driveway as he said. We went to apply the definition of a driveway and there was no definition of a driveway. One (a definition) has been added in, and it strikes the definition of a private driveway, which ties into other amendments which we will be discussing momentarily. Having a definition of a private driveway is overkill since in the definition of a driveway it says a driveway is private. I'll turn it over to the Chairmen to see if he would like any clarification."

Chairmen Ray Langley says, "I have none at this time. Any of the board members, before Jessica moves on?"

There were no questions from the board.

Planner Fiester continues, "At this point I have no further comments, so I just ask if anyone sees a reason to not make these amendments to discuss that now, otherwise go ahead and make your recommendation to Council."

Chairmen Ray Langley says, "Any comments or discussion from the members concerning the wording as we have it in front of us?"

Steve Joyner states, "Well I do. When we were setting up the UDO discussing these amendments, my memory is not as good as it used to be, it was a long time ago, I do remember the ten-foot setbacks on property to property, but I do not remember it being discussed when the roads are on all four sides, and a road on the side versus property. If we did that, I would like to see that discussion. Is there any record of that?"

Planner Fiester states, "No. There is a record in the UDO minutes that were pulled that indicated that all of our major site plans, when they follow the process, were kind of turned into a hybrid. I have the date on that, it was from August of 2008, and Landin Holland was giving the presentation. He had stated that there were things being taken from the other ordinance and incorporated, but never at any time was there a discussion on a perimeter setback on a multi-family project, nor has the town ever had one."

Steve Joyner continues, "Well seeing that that wasn't discussed in detail makes me think we might ought to discuss it in more detail. Because a road is a road and it has traffic and it is a problem with safety. The closer you are to the road the more likely there is that there is a car going out of control hitting a building or hitting a child or something like that. So, I personally would be inclined to keep these setbacks at least twenty feet, if not twenty five feet. Based on the fact that it wasn't discussed. I didn't think about it quite frankly."

Steve Joyner continues, "At the meeting we discussed that this was the intent, the ten foot setback was the intent, and it was the intent, but it was the intent in my mind without the road being taken into consideration. It might have been a lack of foresight on my part, but that is the way I look at it. So, I would be inclined to keep a larger setback on the side of the street and then a ten foot property setback on property to property which could be just twenty feet, ten feet on each side of the piece of property. So, that's my comment."

Chairmen Ray Langley asks, "Anymore comments anyone? There were none. "With that said I will call for a motion to approve or disapprove the amendment as presented."

Steve Joyner states, "I move to disapprove, based on the fact that we should have a larger setback on each side."

Chairmen Ray Langley states, "We have a motion on the floor to disapprove as written. Is there a second?"

There was no response.

Chairman Ray Langley states, "Help me out here councilor, when I do not get a second that automatically kills the motion is that correct?"

Town Attorney, Derek Taylor states, "That's what I was thinking."

Llewellyn Ramsey then says, "Question; if we approve it as written the town board can still make adjustments because they have got the final say."

Chairmen Ray Langley states, "That is correct. That will be up to the Council."

Town Attorney, Derek Taylor states, "This does not create an ordinance, it creates a recommendation."

Neil Chamblee states, "I move to forward this to Council for review."

Curt Windbourne seconds this.

Chairmen Ray Langley then asks, "Before we call for the vote are there any further discussions or questions." There were none.

Chairman Langley continues, "Seeing as there is no discussion I will call for a vote. All in favor to recommend this to the Council by show of hands."

Llewellyn Ramsey, Neil Chamblee, Rich Johnson, and Curt Windbourne vote in favor for the amendment. Steve Joyner votes in opposition of the amendment.

AMENDMENTS TO MULTI-FAMILY HOUSING ORDINANCE

Planner Fiester states, "Further in our application process we realized that there was some confusion in applying 6.21.5. What is before you clarifies what I believe was the intent, and how it was applied 2013, 2014, and 2015 at the TRC. This reflects our reasoning when we approved other site plans using this line of thought. To me it makes sense, and this goes back to our intent in the UDO to increase a setback when it is adjacent to something of lower density on that property line. I don't think that it is necessary to do the same thing when you are zoning district to zoning district and there is no change in that zoning district. Clarifying this, if that's what you chose to do by making that recommendation, would eliminate a burden that that kind of requirement would put on small projects, where someone was, let's say (for example) trying to build a quadraplex or several units in areas that are being considered to be redeveloped on the south side of Fort Macon Road."

Planner Fiester continues, "It's my opinion that throughout the UDO, we pointed out standards where nonresidential uses were adjacent to residential districts that we would give an increased setback. Some of you participated in those meetings."

Planner Fiester continues, "We have other areas that our ordinance will do the same thing. We expressly say in 6.6 there's a twenty-foot setback when abutting a residential property line. Section 6.8.3 says that when the Circle Development District is adjacent to a different district there is a ten-foot setback... When you develop hotels and the project abuts a zoning district intended exclusively for residential purposes, minimum setbacks along the adjoining property shall double. With a nursing home, there are multiple

examples of this, it's no closer to forty feet to any lot on which abuts residential. I believed and presented that this was the intent of how this was written. That it (the setback) was to be doubled when that property line had something on the other side that was zoned residential. That is what I feel the language proposed to you would clarify, rather than the way it is written now. That is all I have on that"

Chairmen Ray Langley asks, "Any questions or comments for Jessica, or comments in general?"

There were none.

Chairman Langley continues, "Then I will call for a motion to either approve or disapprove the changes to the UDO text as written."

Llewellyn Ramsey provides the motion and Steve Joyner seconds the motion. It was a unanimous decision to approve the changes to the UDO text.

Planner Fiester says, "The last portion of this is an interpretation that came up that we should be applying a second setback from a driveway. This ties into our unusual private drive definition. Currently the UDO states *building spacing from private drives within a development shall meet the same front yard setback as required from a public street*. The problem with this is a private driveway is defined as *servicing two or fewer lots or building sites*. This just doesn't make any sense in application because multi-family requirements don't kick in until there's more than three dwelling units or two or more buildings, which in staff opinion negates this needing to be applied. When you have a certain number of units-- that kicks this in. For an example only, at Seaside Villas there are seventy-one lots, so the definition is kind of negating the requirement. We are recommending (vote taken earlier) striking the definition and replacing that with a driveway definition."

Planner Fiester states, "My best suggestion is to clarify that a setback is measured from a property line and eliminate that strange definition and allow parking areas to be governed under Article 9, which is why in my opinion we have a whole ordinance dedicated to parking areas. As a note, we do not currently have any multi-family or hotels that have a setback from a driveway that would meet that requirement. An interpretation like that would create nonconformity."

Planner Fiester continues, "This is where I was mentioning earlier, where we did pull the UDO and we pulled those minutes from August of 2008 and Landin Holland was giving a presentation and said this was a hybrid of major site plan codes. My best bet and in consulting with the attorney, this was this was probably some legacy language that was supposed to be applied when you had a private driveway like you would have used in a planned unit development, which is how we used to design private developments. For example, Seadreams would have a private road, not necessarily a driveway, and in that case it would have made sense to measure that. It is up to you to decide if it is logical to keep something like that within the ordinance or just strike it and have the setback just simply measured from a property line."

Chairmen Ray Langley asks, "Comments, questions?"

Steve Joyner then asks, "So, if we change this to have a physical property line, then if they put a road through the project it's going to have housing or buildings on each side. Nothing to say there would have to be any distance?"

Jessica then states, "Yes, Article 9 dictates how you design a parking lot."

Llewellyn Ramsey then states, "It is already taken care of."

Chairmen Ray Langley asks, "Any further comments or questions? If not the Chair will entertain a motion to approve or disapprove and send it to Council."

Llewellyn Ramsey made a motion to approve and it was seconded by Neil Chamblee.

Chairmen Ray Langley then asks, "Before the vote, any further discussion on the fact that we will be recommending these changes to the Council for approval?"

There was no discussion.

A vote was then taken with unanimous approval to amend as presented.

REVIEW OF SEASIDE VILLAS SITE PLAN

Chairmen Ray Langley states, "Seaside Villas site plan approved April 7th 2015."

Planner Fiester then states, "I'll let Derek reiterate what he stated earlier for you."

Town Attorney, Derek Taylor says, "You folks have already spent a lot of time with the plans, so you don't really have to give it original thought. What has changed is you approved it (the plans) based on ordinances that created a problem with your approval."

Town Attorney Derek Taylor continues, "What we are doing tonight is saying 'with the recommendations that you are making to Council for the ordinance changes, which you are now sending on two of them, 'Will those plans still be okay?'"

Town Attorney Derek Taylor continues, "Approval should be conditioned upon the Town Council approving the recommendations made, or something similar. In fact, I have sketched out a motion should you get to that point. What you're really talking about now, is now that we've done these things, at least recommended these ordinance changes, does that change your mind about this plan?"

(Conversation cannot be heard on tape) Steve Joyner recommends that it would be logical to increase the setbacks from side streets for safety. He also states that he feels that the recreation area does not seem adequate. He recommends this based on the quality of life. He makes a motion to increase side setbacks to 20-feet.

Chairmen Ray Langley states, "Does everyone understand the motion. Basically Steve is saying that we need to increase the side setback an additional ten feet from what was previously stated. Is there a second to Steve's motion?"

There was no second to the motion.

Chairman Langley continues, "The motion will die. Derek do you have anything further to say before we move on?"

Town Attorney, Derek Taylor says, "No I would suggest that the motion that you are making would be, it doesn't have to be this exact, but something to the effect that I can show this to the Clerk if that's what we decide to do. It will be *a motion to approve Seaside Villas development plan as presented, conditioned upon the Town Council's passage of the Planning Board's recommended ordinance changes or similar ordinance changes if the Council may choose regarding required setbacks for this and future multi-family*

development properties. What you're doing is you're not tying the Council's hands. You're setting up a recommendation, but if they chose to do something else they still can, and your approval of the plan wouldn't go forward."

Chairmen Ray Langley states, "I'll call for a motion to approve or disapprove the statement that Derek just read to us."

Llewellyn Ramsey makes a motion to approve the statement that Derek read with Curt Windbourne seconding the motion. A vote is taken with Llewellyn Ramsey, Neil Chamblee, Rich Johnson, and Curt Windbourne voting for approval of the statement Derek read with Steve Joyner voting in opposition.

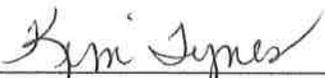
CLOSING COMMENTS

Planner Fiester states, "The Mayor did ask that I announce to the audience that he does intend on placing the Seaside Villas on the Council work session on June 18th. He will be taking comments and participation on potentially landscaping the right of ways on the side of this project if it moves forward, creating a landscaping plan on Highway 58, coordinating a sidewalk across Crystal View, creating a cross walk across 58 as requested, and adding the new parking signs that I understand were requested at last night's meeting on the street. He will be in touch to coordinate that."

APPROVAL OF MINUTES

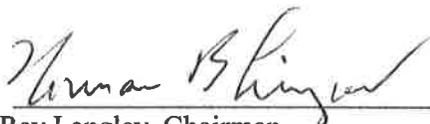
Being no further business, Ray Langley called for a motion to adjourn the meeting. The motion was made by Steve Joyner and seconded by Llewellyn Ramsey. The vote was unanimous.

Respectfully Submitted,



Kim Tynes, Secretary

Approved by:



~~Ray Langley, Chairman~~
Norman Livengood
Acting Chairman