



Town of Cape Carteret Planning Board

Meeting Minutes

October 18, 2022 @ 6:00 p.m.

Members in attendance Chair Susan Hall, Paxon Holz, ETJ Representative, Mike King, Sarah Wax, Bruce Williamson, and Neil Fitzpatrick. Town Manager Frank Rush, Barbara Owens, Commissioner Don Miller, and Commissioner Cameron Watts were also in attendance.

The Debbie E. Stanley Boardroom had many interested residents in attendance.

Chair Hall called the meeting to order at 6:02 p.m.

The Planning Board voted to approve the meeting minutes from September 27, 2022, meeting, and the consent agenda with a motion from Chair Hall to approve. Planning Board approved it with a unanimous vote by all PB members.

Chair Hall said item three on the agenda is the Table of Permitted Uses, does anyone have any changes to discuss.

Mr. Rush explained that he put it in an ordinance format stating that this is what will go forward to the Board of Commissioners if approved tonight. If there are changes, they will be made then forwarded to the Board of Commissioners in the same ordinance format. The feedback that was provided from the meeting in September on R10, R10M, R20, R30, B10 and B20 and that should be consistent with the meeting on September 27. I took the liberty with the one parcel in the B30 district along with the worksheets and other thoughts suggested over the past meetings and thought of deleting it altogether. I mentioned in the written memorandum a few changes that I made that the group did not talk about, the items are listed in bullet format. The plan is to simplify and overhaul the UDO eventually to be more transparent, it is a difficult document. Notice on the chart of Table of Permitted Uses that a green P indicates permitted use by right, no green P means deleted.

Chair Hall opened the floor for discussion. Discussion ensued.

Mrs. Holz questioned building materials and supply yards only listed in B30 when there is a large home improvement center in B20 and what is the difference between building materials and supply yards and home improvement center.

Mr. Rush said that the table is not perfect and will continue to be adjusted.

Mr. King questioned 8.22 – Determining Status of Unlisted Uses, it is confusing. There were two SUPs where the UDO Administrator was in favor of multi-family in a single-family development district and expansion of something that was not permitted. In both cases the UDO Administrator was in favor of doing something that was not part of our ordinance.

Mr. Rush said the language was suggested by the Town Attorney. This is different than the SUP you referenced. Clearly a multi-family is not permitted in an R30 residential zone, but is only allowed in R10M, which is why they pursued the SUP route. If the changes are made tonight someone wanting to place multi-family residential units in a residential zone will be told that is not permitted use in R30 and their options are to request a re-zoning of the property or a text amendment. That is a pretty straight forward interpretation to make. Then it becomes a legislative process the UDO Administrator would make the determination. If not listed and nothing close to it, the UDO Administrator will review the project and what is proposed then will assign to the closest use from the Table of Permitted and Special Uses. If it is something that is pretty close, we will assign it to the closest listed in the

table. If nothing is close then the applicant would seek an amendment to the Table of Permitted and Special Uses, which in turn would go through the legislative process, PB, BoC. If the applicant does not agree with the UDO Administrator, they could appeal the interpretation before the Board of Adjustment.

Mr. King asked if it was not clear cut, would you bring it before the Planning Board.

Mr. Rush said ultimately yes, if it is not clear cut, and I made an interpretation that it was a particular permitted use, you are still going to see that when it goes through the approval process through the PB the site plan approval process and ultimately the BoC. That is your check on the staff and ultimately the BoC check on you, as the PB and the staff going forward. You are still going to see it and will have an opportunity to raise that question and bring that issue up. If I, or whoever the UDO Administrator is, says it is not allowed, not a permitted use, chances are you are going to hear about it because they will request some sort of amendment or clarification of our ordinance. Then you would have to weigh in on that saying it is appropriate or not appropriate. The short answer is you will hear about it, you are not going to hear about it in the way I think you are anticipating. I am not going to come to you and say what should I do in terms of the application of the ordinance for that particular request, but the process builds in the opportunity for you to be aware of that, comment on it and gain the situational awareness and adjust it later on.

Chair Hall asked about conditions and standards.

Mr. Rush said the UDO has conditions and standards that will certainly be applied, my philosophy is, there are five or six things that really matter at the end of the day in importance. All what if scenarios cause problems more than what matters. I trust the process that has been established. Changes to the UDO will be based on needs and the preference of the Board of Commissioners.

Chair Hall asked about stormwater and parking lots.

Mr. Rush stated that development of new stormwater requirements is on his list of items to accomplish going forward. The current ordinance is open-ended and difficult to apply.

Mr. Williamson asked if the process does not fit, assign it to the next closest category then will it come before the Planning Board?

Mr. Rush said with any commercial site plan, we will review at staff level, making sure that it adheres to all the requirements, then bring it to PB to go over the proposal, reviewed as a permitted use for recommendation of approval. I hope you gain trust with staff to do a thorough review and identify issues. Hopefully, we have worked with the applicant, and we've made it easy for you, that everything complies and meets all requirements. Then we bring it to you, and if it complies with the requirements we have, I hope it becomes a rubber stamp situation which is a success because everyone has done their job correctly.

Mr. Williamson said if that is the process, then PB would be made aware of all commercial items.

Mr. Rush said that is my goal, which is not clear in the UDO right now, it is important for the PB to know what the issues are. We must also be fair to the applicant and not nit-pick, trying to add on other things which become frustrating for the applicant.

Chair Hall said PB needs situational awareness. Had we (PB) been involved in it (Island Pet) we would have recommended that the front faced Golfin Dolphin Drive. Considering future planning for our main street.

Mr. Rush said to be clear the vet office and my assumption was that it faces Golfin Dolphin Drive. My perception is that it is fronting on Golfin Dolphin Drive. If that project came through, they met all the

requirements that you have outlined here, and you all were not comfortable with whether they chose to make the front on Golfing Dolphin Drive or on the side road you would not have the opportunity to tell them what you think the front should be if they complied with all the other requirements. You could suggest to the applicant to orient their business, color, etcetera. I want to get to a system that if they meet the requirements, great the project is approved.

Mr. Williamson said I am hearing Frank say that if the applicant meets all requirements, we can suggest certain things based on our vision of future development, but it is precatory we cannot force them to do it and it is up to the applicant to comply or not.

Chair Hall wants the PB to have the input.

Chair Hall said we are ready to make a motion with the changes or do we need to wait and see it in print first?

Mr. Fitzpatrick made the motion to approve.

Mrs. Wax seconded the motion

Mrs. Holz abstained from the vote.

The Planning Board unanimously voted to forward the motion with changes to the Board of Commissioners.

(Changes were to move supply yards into Building Materials, add building trades and contractor shops as permitted in B20, remove cabinet makers, and move them to building trades and contractors as permitted in B20 and B30.)

Mr. Rush said the next PB meeting is November 15, 2022, and will have a light agenda as it is the day after the Board of Commissioners meeting. There may be a re-zoning request possibly coming forward regarding the Taylor Notion property that was the subject of the townhouses. If that comes through it may be the only item on the PB agenda.

Mr. King said these are items for the agenda coming up, there needs to be a discussion about establishing impervious coverage throughout the town. Should be included in the stormwater discussion. A discussion of the PB reviewing SUP like other towns, which can come from the BoC.

Mr. Rush said let me clarify what the previous comment was, if the Board of Commissioners if the governing body is the ultimate approval authority for a SUP, I do not believe it is not legal or wise and appropriate to have any other body reviewing that whether it is the PB or anybody else. The nature of the SUP process is a quasi-judicial process, and a decision is supposed to be made based solely on the evidence presented at that meeting. The commissioners, the governing body members, are not allowed to have any conversations with the applicant or citizens prior to that meeting. Introducing the PB into that I do not believe that it is legal, and it undermines the intent of the quasi-judicial process. That was my explanation to you all at a previous PB meeting. Could the Board of Commissioners, as a matter of legislative decision delegate review and approval of SUP to the PB, they absolutely could. They could delegate to the Board of Adjustment and take themselves out of the process completely if that were the case. That is an option and that is probably what you see in other communities. Some delegating authorities are hesitant to cede their authority. I will have the town attorney to opine on it.

Mrs. Holz asked if the Town Attorney will be present at the next meeting.

Mr. Rush said that the Town Attorney will be involved, and this will be a discussion for the December meeting, not the November meeting.

Mrs. Holz asked that protocols be established for emergencies within the town as there was an emergency today to do with a gas line leak and she did not get official notification. She stated that the town should have a protocol in place for the future.

Mr. Rush said that we will work on emergency communications with the public, but there are protocols in place.

Chair Hall asked for a motion to dismiss the meeting.

Mrs. Wax made a motion to dismiss the meeting.

Mrs. Holz seconded the motion.

All members voted to end the meeting at 7:45 p.m.



Chair Susan Hall

date: 1.9.23



Barbara Owens

date: 010923