

**TOWN OF ATLANTIC BEACH
MAY 17, 2010**

APPROVED

Planning Board Minutes

Members Present

Larry Burke
John Hopkins
Steve Joyner
Ray Langley, Chairman
Scott Rice, MD
John Rivers

Staff Present

Nina Erwin, Secretary
Jessica Fiester, Planning Director

Others Present

Mike Shutak, Reporter

Members Absent

Norman Livengood(excused)

CALL TO ORDER

Chairman Ray Langley called the meeting to order at 6:00 pm.

MOTION TO EXCUSE ABSENT MEMBER

Chairman Langley called for a motion to excuse Norman Livengood from tonight's meeting. **Steve Joyner made the motion. John Rivers seconded the motion. The motion passed unanimously.**

APPROVAL OF MARCH 2, 2010 MINUTES

Chairman Langley called for a motion to accept the minutes of March 2, 2010, as written with the change. **(John Rivers stated at the top of Page 3, the name should have been John Hopkins and not John Rivers. John Rivers was not present at the March 2, 2010 meeting.) Scott Rice made the motion to accept the minutes. John Hopkins seconded the motion. The motion passed unanimously.**

DISCUSSION AND RECOMMENDATION ON AMENDMENTS TO THE UDO

Planner Jessica Fiester stated there are two text amendments to the UDO. The purpose of tonight's meeting will be to discuss changing the ordinance to allow Taverns, Bars and Night Clubs as a Conditional Use in Resort Services (RS). Resort Services is a mixed-use, high-density district and has all of the mobile home parks, most of the condos and all their associated uses. A good portion of Fort Macon Road is also zoned RS. Most of the items that are not residential in RS are Conditional.

Taverns, Bars and Night Clubs are allowed in the Circle Development District (CDD), General Business (GB), and the Community Business (CB) by obtaining a permit from Planner Fiester. These businesses must also have other items such as a liquor license. Staff is trying to accommodate a request that is coming down the line which will be kept out of this discussion tonight for the purpose of coming up with regulations that could be used anywhere in RS.

Mayor Cooper, also an attorney, looked over the amendments to the UDO and added some ideas and language from Morehead City and other towns. The amendments have been reorganized with additional items. Originally, the only regulations on bars was what is listed in black. In order to make a Conditional Use in a certain zone, the conditions had to be added in, making sure that everything is done to make an establishment a good neighbor to surrounding properties.

Planner Fiester asked the Planning Board members if they could think of any other conditional items that needed to be added to Section 6.33 of the UDO. The Board of Adjustment will evaluate these items after the Planning Board's evaluation.

Planner Fiester stated many businesses in RS are right next to some kind of residential property. Therefore, music would have to be kept inside. Down the road someone might have a problem with that; however, I don't see allowing outdoor music somewhere abutting a residential neighborhood. It would cause too much grief.

John Hopkins asked if it was fair to not allow one place to have loud outdoor music and then another place to have loud outdoor music. Planner Fiester said that was a good point. In the areas of CB and GB, those areas are not as noise sensitive to their neighbors because there is more buffering. In the CDD, there will be businesses mixed in with residential uses. Looking at it in that direction it may be something to amend for those districts separately at a later time, and to leave in this amendment. In this zone, opening a new establishment under one of these permits the outside noise would be too much of a problem.

John Hopkins said that his comment had to do with an existing business. If the board allows one place to have it, how can the board not allow another place to have it? The loud music begins before dark and ends after dark (such as the club Memories). Planner Fiester stated if Memories closed and not opened for over 180 days, they would have to come back and go through the same process. They are grandfathered in for the most part right now. Without this amendment they would not be allowed to re-open.

Planner Fiester said that the board can place limits on the Conditional Use permit. Generally when people have an outside event, for instance at the Shark Shack, the Shark Shack has to go to the Police Department and get a noise permit. Planner Fiester stated it can be written that outside live entertainment is permitted with an appropriate permit from the Police Department. The Town already has an ordinance concerning amplified outdoor music and it is controlled by the Police Department.

Chairman Langley said the board should take #5 and add that with outside events a permit from the Police Department is required. Planner Fiester will write the language for the amendment.

Planner Fiester pointed out that on #7, concerning associated permits, such as Health Department approvals (food, liquor licenses, DOT curb cuts), there are certain times when they will not issue those permits until they have approval from the Town. That is the only reason #7 says "An exception may be granted by the Zoning Administrator if Town approval is required for any such permits prior to issuance."

Planner Fiester stated that Mayor Cooper recommended that #9 be put in. This is the policy that is referenced elsewhere in the UDO and doesn't necessarily need to be reiterated. If the problems become too intense such as stinking trash, people loitering, noise volume consistently too loud, the Town has the legal means to close the establishment and not renew their Privilege License.

Larry Burke stated there should be some definition of loitering. Planner Fiester said the language used in #4 came from Morehead City. We can adopt their definition of loitering or we can change the word to something we would prefer. Larry Burke said you cannot smoke inside of a building and people go outside to smoke. Some people might define that as loitering. Planner Fiester stated the solution to that would be to define loitering.

The Planning Board recommended that the word "loitering" should be replaced with "causing a disturbance." The board members all agreed on this change.

Planner Fiester stated that if the amendments are passed by the Town Council, the following will be the procedure:

- Applicant presents the plan
- Plan goes through the Technical Review committee (TRC)
- TRC package goes to the Planning Board
- Applicant presents proposal to Planning Board after paying the Conditional Use permit fee
- Planning Board goes through the package and adds the conditions (according to State Statutes)
- Planning Board's recommendation goes to the Board of Adjustment
- Board of Adjustment has their quasi-judicial hearing on the proposal
- Applicant can get an attorney if he/she does not like the outcome

Planner Fiester said this gives us plenty of tools to use to make a project a good neighbor.

Chairman Langley requested that Planner Fiester read what will be rewritten in #4 and #5 before a motion is called for. Planner Fiester stated the following:

- 4) It shall be the responsibility of the applicant to prevent its patrons from causing a disturbance on public or private property in the vicinity of the applicant's establishment.
- 5) Live entertainment shall be permitted in bars, taverns and nightclubs in the RS district, provided that it shall occur inside the enclosed building. Outside entertainment is permitted with a permit from the Police Department.

Chairman Langley asked for any discussion before moving toward a motion. **There was no discussion.**

Chairman Langley entertained a motion to accept or deny the text amendment to Section 6.33 as typed and with the write-ins that Planner Fiester read. **John Hopkins made the motion to accept the text amendment. John Rivers seconded the motion. The motion passed unanimously.**

ADJOURNMENT

Chairman Langley entertained a motion to adjourn. **Scott Rice made the motion to adjourn. Steve**

Joyner seconded the motion. The motion passed unanimously. The meeting was adjourned at 6:26 pm.

Respectfully Submitted,

Nina M. Erwin, Secretary

Approved,

Ray Langley, Chairman