

TOWN OF ATLANTIC BEACH
September 7, 2010

Planning Board Minutes

Members Present

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

Staff Present

Nina Erwin, Secretary
Jessica Fiester, Planning Director

Others Present

Harry Archer, Mayor Pro-Tem
Jim Bailey, Beach Huts LLC,
Applicant
Ann Batt, Councilmember
Eddie Briley, Councilmember
Jason Epstein, Baker Renewable,
Applicant
Mike Shutak, Reporter

Members Absent

All Planning Board members were present.

CALL TO ORDER

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

APPROVAL OF July 13, 2010 MEETING MINUTES

Chairman Langley called for a motion to approve the minutes of July 13, 2010, as written. **Norman Livengood made the motion. John Rivers seconded the motion. The motion passed unanimously.**

CITIZEN SPONSORED TEXT AMENDMENT REQUEST
SECTION 6.28 – RV PARKS & APPENDIX A – DEFINITIONS
Planner Jessica Fiester

The first request is an amendment to Section 6.28, which is the special area of the ordinance that puts forth specific guidelines for different uses. The following is a summary of requested changes:

- **Reduce the space between RV's from 20-feet to 8-feet** – This was transferred from another RV ordinance into our Unified Development Ordinance (UDO). The company is requesting an 8-foot separation. That is the same separation which is required in the Mobile Home Ordinance. If you have a deck on an RV or on a mobile home, it would need to be 8-feet to 8-feet to the closest next part of the adjacent unit.
- **Setback could be utilized for sewage disposal and open space requirements.**
- **Change the word “pavement” to “surface”.**
- **Clarify that only Department of Transportation (DOT) roads would require DOT approvals for ingress and egress.**
- **Remove “trash rack” references.**
- **Clarify that only vehicles required to be licensed need to show a license.**
- **Add definition of a “Park Model RV” to appendix.**

APPLICANT PRESENTATION

Jim Bailey (Beach Huts, LLC), Applicant, resides at 517 East Fort Macon Road, Atlantic Beach.

I am looking at possibly putting an RV Park on the old Jungleland property. At this point, I am not looking for any approval, but I have requested a text amendment. If the text amendment is approved or not approved, we will move to a design phase if we want to move forward with it. Right now, we have an existing approval for a condominium development on that property. If we move forward with the RV park, we would be leaving the condominium approval and going to the RV Park conditional use within that same zone.

Planner Fiester – The property is already zoned for an RV Park. An RV Park is a conditional use in the Resort Services zone and would need to go through the same process as we just did with the bar (Crystal McKnight). It will go to the Technical Review Committee (TRC), then it is brought to the Planning Board, and then forwarded to the Board of Adjustment. Right now, we are talking about making several changes to the text in the UDO.

Jim Bailey (continued)

The following is a summary of Mr. Bailey's request for the Text Amendment:

Space between RV's - The 8-foot space seems reasonable. If it is okay for mobile homes, it would be okay for RV's.

Setback - The UDO was not clear concerning the setback. We wanted it clarified that the setback could be used for sewage disposal and open space purposes.

Pavement - We wanted the word “pavement” taken out of the ordinance to avoid creating any conflict or any confusion about what the road has to be made of. If you want the roads paved then say “paved.” If you want them “all weather” that is fine too.

DOT issue - There is some language in the UDO that is fairly generic. It talks about any roads and any driveways have to be approved by DOT. The two (2) roads at Jungleland that we intend to use for ingress and egress are the side roads that are perpendicular to Salter Path Road. They are not State roads. How do we get approval from DOT on a road that they have nothing to do with? The DOT issue would apply if we were going to take an entrance off of Highway 58.

Trash racks – There is a provision in the ordinance that says trash cans have to be contained in some type of trash rack. We would anticipate using the roll-out green cans. These cans don't lend themselves to that sort of rack system. If you had a rack, you would have to use a conventional trash can which Waste Industries will not pick up.

Licensed vehicles – If a license plate was not required then why require one to be on the vehicle just for Atlantic Beach purposes? If DOT says everything has to be licensed, then we would have to do it.

Park Model RV – We want Park Model RV added as a definition. Park Model is something reasonably new in the RV industry. It refers to a 420 square foot or less unit. It tends to be more like a mobile home than it does a true over-the-road RV. It is treated as a RV by the Department of Health. It has different requirements for septic and sewage, and is not self-contained. There are no sewage tanks on it. They are movable over the road and have wheels. It is a cross between an RV and a mobile

Jim Bailey (continued)

home. Park Model RV's are very restricted in terms of their size. They make a nice, reasonably priced, affordable place at the beach.

Thank you for your time and attention. I will be glad to answer any questions.

PLANNING BOARD DISCUSSION/POSSIBLE ACTION

Norman Livengood asked what the setbacks were in other RV parks that Mr. Bailey has seen. Mr. Bailey said that concerning setbacks, what he saw in other RV parks was less than what Atlantic Beach has.

Steve Joyner was concerned about leaving Park Model RV's in the park and how they deteriorate as the years pass.

Planner Fiester said the Park Model is something that is considered permanent. The intention is not to move them around. Some of the ordinances looked at had the setbacks set up differently. Some were unit to unit and they did not have decks. It was important that if the intention for a Park Model RV to be there permanently, that you will count for the deck and that you will have at least 8 feet between combustibles. Most of the time, it was about 12 feet. Our ordinance says 20 feet. This is for the Planning Board members to discuss.

Planner Fiester requested that the focus be on whether to allow "Park Model RV" to be in the UDO definitions. First of all, this is the biggest question in front of the board this evening. Secondly, is the setbacks. The other things are tiny details that are fine for clarification purposes on any RV Park. We have already said that it is okay for the RV's that come in and out, with a Conditional Use Permit. The Planning Board must discuss whether to permit Park Model RV's on a permanent basis in the RV Park and how close the units should be.

Jim Bailey stated there is a fair amount of demand for the Park Model RV. The parks that have Park Model RV's in them are really nice. Park Model RV's have to meet the new wind zone codes.

Planner Fiester stated that she talked with Landin Holland, Holland Consultants, concerning the RV Park and Park Model RV's. Mr. Holland said most places allow the Park Model RV's in an RV Park, but they require that only a certain percentage of the spaces can be used for Park Model RV's, and the rest of the spaces for transient people. Planner Fiester said there are many calls from people who want to know where they can park their RV's. There is a need for some transient RV parking and Mr. Bailey's property is zoned for that. This is all going back to what you want to do with the spacing of the Park Models and what percentage, if any, do you want to allow in that zone. These are also allowed in the Resort Mixed-Use District. I don't believe there is anything over an acre in Resort Mixed-Use right now that is vacant.

Concerning changing "pavement" to "all weather", Chairman Langley asked Mr. Bailey how he would control the dust if it was not paved. Mr. Bailey said it would probably be paved. He said that he saw an inconsistency in the language used. We don't have a problem with requiring pavement. The way the ordinance read, it said "all weather". "All weather" is not necessarily "pavement."

Planner Fiester said this is a Conditional Use and if Mr. Bailey presents a plan to the TRC and the Planning Board, board members can require pavement, fencing, buffering, and landscaping.

Chairman Langley asked as far as ingress and egress, was Mr. Bailey thinking of using Pelican and Fairview streets? Mr. Bailey said there would be an entrance off Pelican and an entrance off Fairview. This is very preliminary right now. Our thinking was to have an entrance off each way and the entrance would go one (1) unit deep, then we would make a circle around and have cul-de-sacs. We would not want to produce a drive-through situation.

Planner Fiester stated that the board members need to discuss the following:

- Allowing Park Model RV's
- In an RV Park, whether or not you want the Park Models, if you want to change the setbacks and make the other changes that he has requested.

Steve Joyner said the Park Models are a problem waiting to happen. No matter how nice they are to start with, they deteriorate with time. The RV Park is for people who want to bring their RV in and stay for a couple of weeks and then leave.

Chairman Langley said the board members could limit the Park Model RV's to a percentage of the RV park. Steve Joyner said that to place a conditional use on the time limit a Park Model RV could stay in the park would be a financial hardship on people if they had to move their Park Model RV out of the park when it reaches a certain age (10 years). Mr. Joyner said right now, they are all new and expensive, but in ten years they will deteriorate and some people won't be able to afford to keep the RV in repair.

Chairman Langley said there are three (3) decisions that the board members need to make. The decisions are:

- Allow Park Model RV's?
- Do not allow Park Model RV's.
- Allow Park Model RV's with a percentage cap of spaces.

(Mr. Bailey was sitting in the audience and his comments were not audible – not speaking into microphone)

Chairman Langley asked the board members if they wanted to table the issue of Park Model RV's until the next meeting. Chairman Langley asked the board if they were prepared to move forward on the other items.

Planner Fiester stated the changes for the Text Amendment should be kept together.

Larry Burke said it would seem appropriate to him that the containers for trash be attached to something so that they do not blow into the street.

Planner Fiester said the reason the requirement to move the RV's periodically was taken away was because of the enforcement problem. If every RV on the beach, especially on the East end, had to be moved every so many days, that is all the inspector would do.

I think the setbacks were larger (20 feet) because they were considering space to move a truly transient vehicle in and out. Planner Fiester told the board members they can table this until the next meeting, and give her direction as to what the board wants her to research or the board can take a vote on this and recommend certain parts of the changes, and not recommend other parts of the changes, or take a vote on it and recommend that the Text Amendment not be adopted. It can still go to Council. They

will decide whether or not to set up a Public Hearing. We have not sent something on with a negative recommendation in a long time, but that is an option the board has.

Chairman Langley suggested the Text Amendment be tabled until the next meeting. Chairman Langley requested that Planner Fiester provide some pictures of a Park Model RV versus a Travel Trailer so that the board can compare them side-by-side.

Planner Fiester stated that one option was to require that RV Parks established after a certain date are required to rent the space for a certain amount of time. That would be one way to handle this. Planner Fiester said if the board wants to drop the Park Model RV's and focus on a transient RV Park, please go ahead and do that, and discuss the setbacks, and how long a space can be rented. Jim Bailey stated he would not object to Park Model RV's being removed from the Text Amendment request.

Chairman Langley asked if there were any recommendations to reduce the space between RV's from 20 feet to something less or to leave it as it stands. Larry Burke said that some reduction is reasonable. John Rivers said that the board needs to come up with something other than 20 feet because the park can not be designed with that much space between RV's and make it economically possible. Chairman Langley stated that Steve Joyner recommended 10 feet between combustibles. Planner Fiester said the acre of land must have at least 15 spaces.

Chairman Langley said the board will not vote on each issue. The board will vote on the change requests as one. Chairman Langley reviewed the board members decisions on the Text Amendment request.

Reduce the space between RV's from 20-feet to 8-feet

Is the majority of the board in agreement to drop the space between RV's from 20 feet to 10 feet? The majority of board members were in agreement.

Setback could be utilized for sewage disposal and open space requirements.

The board members agreed.

Change the word “pavement” to “surface”.

Planner Fiester said she will streamline the word “pavement” to be used in the ordinance. The board members agreed.

Clarify that only Department of Transportation (DOT) roads would require DOT approvals for ingress and egress.

The board members agreed.

Remove “trash rack” references.

Chairman Langley said this will be dealt with at the planning level when the plans are submitted.

Clarify that only vehicles required to be licensed need to show a license.

The board members agreed.

Chairman Langley entertained a motion to accept these items as changed. **Scott Rice made the motion. John Hopkins seconded the motion. The motion passed with six (6) board members in favor and one (1) board member opposed.**

Planner Fiester stated the Council will request a Public Hearing be set up at their meeting later this

month. If the Council set up a Public Hearing on these changes, the hearing will be in October 25.

Chairman Langley called for a two (2) minute break.

Chairman Langley reconvened the Planning Board Meeting.

**CITIZEN SPONSORED TEXT AMENDMENT PRESENTED BY JASON EPSTEIN
ARTICLE 6, ARTICLE 5, APPENDIX A**

Planner Jessica Fiester

Last year we had a presentation on renewable energy. No formal request was made to change the ordinance. This Text Amendment was requested. What they have asked for is an amendment to a Tall Structures Ordinance. The Town does not have a Tall Structures Ordinance. For specific uses, we have specific regulations. What they are asking to do is to add some new renewable energy systems definitions into Article 5, whether they be conditional or permitted. Then, to add into Section 6, the regulations for renewable energy systems.

APPLICANT PRESENTATION

Jason Epstein (Vice-President, Renewable Energy), Applicant, resides at 10704 Travers Creek Drive, Raleigh, NC.

Baker Renewable Energy is a division of Baker Roofing. Baker Roofing is the third largest roofing company in the country. As a division of that larger exterior construction company, we are a large regional renewable energy company. We have projects in Virginia, West Virginia, North Carolina, Georgia, Tennessee, Texas, Florida, and New York. We also have projects as far away as California.

I have done a lot of work with municipalities and clients with municipalities. Tall structure wind ordinances have been put together with a lot of forethought, taking into consideration not just the client's needs, not just the equipment needs, but also the needs of the municipality.

In the past three (3) months, we have been awarded a four (4) turbine contract with Sandy Cooper in South Carolina. We have installed a wind-turbine at Cape Fear Community College in Castle Hayne. We have installed a wind-turbine NC Solar Center in Raleigh. We have been awarded a contract to install a wind-turbine in Western Virginia for New River Community College. In the past four (4) or five (5) years, we have seen the installation of over 30 wind-turbines.

Jason Epstein (Vice-President, Renewable Energy), Applicant (continued)

I also have paperwork on the Skystream 3.7, which is currently the model around which most wind ordinances is being written. It is the industry leader and is the Model T of the wind-turbines. It is the most simply designed and is designed like an appliance. It makes all of its power from DC to AC right in the cell or body of the turbine. You do not have to have extra inverters or equipment down at the base or on the side of the building. It literally brings the power back to the 25 amp breaker in the residential or commercial house panel. We have to do some coordination with the utility. Everything is installed to code and meets UL standards. The Skystream is manufactured by Southwest Wind Power. They have sold over 15,000 world-wide, and are throughout our country and throughout Central and South America, Asia, and Europe. It dwarfs even the second nearest competitor.

We install a lot of different turbines of varying sizes and heights, but this tends to be the most popular until you get up to light commercial applications. **(Please see pamphlet given to each board member for pictures and information on the Skystream Wind-turbine.)**

As far as the units are involved in the cause of bird fatalities, birds see the turbines.

One of our biggest concerns is the comfort of people, not only those who own the appliance but the people who live near it. In a 25 mile-an-hour wind, these units rate about 55 decibels. That is about the sound of your refrigerator kicking on. Fifty-five decibels is not very loud at all. The units are very contained and insulated.

The turbines do not fall. They have stamped and engineered foundations. The turbines are coded and have gone through all the inspections that any other structure would have to go through. But, should an item fall, it falls on the owner's property. That is usually the number one concern. When you have a proper setback, you are making sure that it is not right outside their window. You are making sure there is a safe and significant distance to diminish the volume of noise that it does produce. Even though it is a quiet unit, it has to be a certain distance away from the property line, and this keeps it from being an obtrusive unit. Most of the time, these units are for clients that have three-quarters of an acre or more.

The reason we mentioned the 55-foot height is the majority of small turbines are offering a solution somewhere within the 40-60 foot range. If you offer a 55-foot height, it allows for the body of the turbine as well as the blade to stay below 55 feet. For this unit as well as a number of others, a 45-foot tower which would offer six (6) feet of blade (51 feet) would be four (4) feet under. Fifty-five feet offers a number that is fair to the industry for what is needed. They need to be up in that clean stream of air in order to be production worthy. If they are 20 feet off the ground, they are not going to produce anything. Wind power is very much like water. It is fluid dynamic. The closer to the middle of a channel that you get, the stronger the current is. The higher up from the ground you go, the better the wind resource is. Those are the two (2) main points to consider as far as the rough structure of the draft.

One of the main concerns a lot of people have is interconnection. Interconnection for these units, because they are connecting to the grid 99% of the time, is connecting to the utility. That is regulated on a Federal level. If they do not have a certain UL listing the utilities have to allow for it to interconnect. These units have been through a lot of that basic testing. The foundations go through the building permit process, and the electrical codes are met. Every unit we do has stamped plans and stamped electrical line drawings.

Jason Epstein (Vice-President, Renewable Energy), Applicant (continued)

Most of the ordinances that we have seen passed say if the turbines are out of service for over one (1) year, they have to be taken down. The majority of smaller turbines (non-commercial) are either on tilt-up towers or 60, 70, or 85 foot mono-pole, or lattice tower. It is not a large project to take the turbines down. The responsibility for taking the turbine down falls on the homeowner should one be abandoned or left neglected.

What sort of questions can I answer for you?

PLANNING BOARD DISCUSSION/POSSIBLE ACTION

Planner Fiester said the height in our residential districts is 45 feet. Nobody appears to want anything over that. They can have five (5) additional feet for non-habitable space. My concern with the turbines is their height. In our business district the height is 55 feet with another five (5) feet for non-habitable space. Most of our lots here are under 5000 square feet.

Steve Joyner asked why exercise all the labor of coming up with the UDO when the potential is so slim for these units? Why not wait until the actual situation comes up?

Planner Fiester said we can add the units in as a Conditional Use. But again, in the Conditional Use, you cannot break any other part of the ordinance. You can ask for landscaping but you cannot change the height rules for one (1) specific use.

Chairman Langley said he was concerned with a commercial entity buying two (2) or three (3) lots and putting up four (4) or five (5) of these turbines on one (1) lot. We would have to regulate that.

Jason Epstein, Applicant, stated that the turbines need a certain space so they do not block one another's path of resource. It would be difficult to get a number of them properly sited on one (1) location. For the business model, it is borderline here between wind and solar as to what makes a better model. It is not a money maker. It is a long-term off setter. It adds to what we call the levelized cost of electricity, which is cost of the unit after the incentives divided by how much power it is going to make over the next 20 years. Units like this, over 20 years, are going to be giving you electricity at four cents for the next 20 years instead of paying four cents plus fees from the local utility. I don't think it would be the sort of situation where you would see someone looking for property development of a wind farm like out West where they have much greater wind resources. I would never suggest 80 feet in the structuring of an ordinance for your Town. I think that 55 feet would be a very fair amount.

Norman Livengood asked if there were different sized units. Mr. Epstein said there is a 1, 2.4, 3.2, 5, 10, 20 kilowatt, and some other little ones. I don't think the Town would want a unit that has a 20-foot blade.

Planner Fiester stated that what Mr. Epstein is asking for is focused toward smaller residential units like single-family through quadraplex.

Larry Burke asked how the poles are designed from a wind load standpoint. Mr. Epstein said the units have a survival speed of 146 miles per hour. This particular unit will electronically break. After five (5) minutes it will turn itself on again as a test to see if it is safe. If it still is experiencing dangerous conditions it shuts down until it is manually reset at the ground. The poles are engineered and are not streetlight poles. They have either a 17, 19, or 21 inch base depending on the height for the mono poles. The guide towers are using five (5) inch schedule 80 pipe. They have to be tilted down in the event of a hurricane.

Planner Fiester stated that her biggest concern are the poles. It is something worth exploring conditionally if you want.

Chairman Langley asked if this was something that had to be worked on now or when we have a formal proposal. Planner Fiester said that the applicant paid a lot of money to have the board review this and it is a formal proposal. If the board wants to make this a Conditional Use, we have to decide which things need to be laid out as conditions. The applicant wants to change the ordinance to give him the right to ask for this.

Planner Fiester stated the applicant proposed some language but it does not fit our ordinance because we do not have a Tall Structures Ordinance. We would treat it as an accessory structure like anything else. Most accessory structures are considered a shed or a boatlift and not a 50-foot pole on the beach. That is where it is different, but not to say that we cannot work it in the ordinance.

Harry Archer, Mayor Pro-Tem made several comments concerning renewable wind energy.

Steve Joyner proposed the subject should be done on the ground level between Planner Fiester and the

applicant. It needs to be brought back in a more formalized, finished form for the board members to consider. It is too complicated for us tonight. Planner Fiester said the board can send the request for height to Council. Planner Fiester asked Mr. Epstein if there was a way to put the unit on the roof. Mr. Epstein said no because it is not safe for the structure. The units will generate 6500 pounds of thrust-force in a 30 mile-an-hour wind.

Steve Joyner asked how many lots are available in Atlantic Beach where a 40-foot pole would fall on the lot without crossing the property line? Planner Fiester said that most of our lots are 5000 square feet.

Chairman Langley suggested that the board prepare questions and submit those questions to Planner Fiester. The board will give her 60 days (2 meetings from now) to research what she can. We can extend the 60 days if that is not enough time. Planner Fiester stated that a better approach would be to confer with the applicant and draft something up that is specifically conditional. Mr. Epstein was asked by Planner Fiester to submit exactly what he wants to put in Article 6. Planner Fiester will work with the applicant. The draft will then be submitted to the Planning Board members.

Mr. Epstein stated that any ordinance draft the board receives from his team and Planner Fiester will be vague and fair. It will not address a specific type of equipment. It will address a fair area of what may work for the citizens of Atlantic Beach. It will not say this model or that model. It will have height ranges, setbacks, noise levels, and not any specific product.

Chairman Langley asked the board members if they were in favor of Planner Fiester working with Mr. Epstein and his team to bring these ideas forward to another Planning Board meeting. All of the board members were in favor. Chairman Langley stated that Planner Fiester was to move forward with the work and to take the time she needs whether it is 30 days, 60 days, or 90 days.

ADJOURNMENT

Chairman Langley called for a motion to adjourn. **Steve Joyner made the motion. John Rivers seconded the motion. The motion passed unanimously. The meeting was adjourned at 8:20 pm.**

Respectfully Submitted,

Nina M. Erwin

Approved,

Ray Langley, Chairman