

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
February 8, 2017**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, February 8, 2017.

Present were: Chair Joe Blakaitis, Vice Chair Marc Murray, Ron Forlano, Tim McKeithan and James Cofield.

Absent: None.

Also present were: Council Liaison Chuck Burdick, Director of Community Development Joe Heard and Permit Coordinator Sandy Cross.

Others Present: None.

Others Absent: None.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for February 8, 2017 at 6:47 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Text Amendment: Proposal to Amend Subsection 156.053(A) of the Zoning Ordinance to Allow Administrative Approval of a First Floor or Ground Floor Addition within the Existing Building Footprint of a Nonconforming Residential Structure, Subject to Certain Conditions

Director Heard stated that during the Planning Board's review of a recent special exception application at 107 Wampum Drive, there was a considerable amount of discussion about why the proposed ground floor addition within the nonconforming footprint of the existing residence required a special exception to be approved. He stated that Town staff observed that Subsection 156.053(A) of the Town Code has special allowances for second or third story additions, but does not have corresponding allowances for additions to the first or ground floor level.

Director Heard stated that at the Council's January 4, 2017 meeting, Council considered this discrepancy and authorized the Planning Board and staff to develop a text amendment that also

permits first floor or ground floor additions when the existing residence has nonconforming setbacks. He noted that the ordinance currently allows staff to administratively approve an addition of a second or third story but does not offer the same flexibility for a first floor or ground floor addition.

Director Heard explained that in most cases, an addition located underneath the existing floors of a residence will have a lesser visual impact than upper story additions to the same home. He added that the building façade and massing remain the same. He stated that as the Town has permitted upper story additions within the building footprint for over 12 years, it makes sense to consider allowing a lesser impact ground floor or first floor addition within the same footprint.

He pointed out that the special allowances are only permitted under certain conditions outlined in Subsection 156.053(A):

1. The structure must be a single-family residence.
2. The residence must have been constructed prior to July 3, 2002.
3. It must be the principal structure on the property.
4. The footprint of the residence does not include covered decks.
5. The height of the residence cannot exceed the maximum building height.
6. The permitted encroachment can be no closer than 15 feet from the front or rear property lines and eight feet from the side property lines.
7. The addition must comply with all other applicable standards of the zoning ordinance.

Director Heard noted that the Town's CAMA Land Use Plan does not contain recommendations regulating to the specific amendment being proposed but contains objectives generally guiding the adoption of development standards.

Director Heard stated that, since the proposed amendment would allow greater flexibility for property owners with nonconforming residences to make reasonable improvements to their properties with minimal impact to neighboring properties, staff is recommending approval of the proposed text amendment.

Chair Blakaitis asked for clarification on the side yards being no less than eight feet and the front and rear yards being no less than 15 feet. He asked if it meant if it intruded more than that on either side, that it would not be in effect. Director Heard stated he is correct. He explained that the ordinance offers an allowance into the side, front and rear yards. He added that if an addition intrudes greater than the eight or 15 feet, it would have a greater impact on an adjoining property and have to go through the special exception process.

Member Forlano asked if Council had any questions concerning any part of this ordinance. Director Heard stated that there was a consensus from Council to send it back to the Planning Board. Member Forlano clarified that it was a total agreement on how it was written unless the Planning Board had questions. Director Heard stated that he did not recall any dissenting opinions from Council. Council Liaison Burdick stated that he brought the issue up and Council was in agreement to send it to the Planning Board. Chair Blakaitis stated that it was his understanding as well. Council Liaison Burdick understood that the way the ordinance is written, it went back to homes that were constructed under Dare County and does not apply to

any house constructed since Duck incorporated. Director Heard added that it only applies to structures constructed prior to July 3, 2002. Council Liaison Burdick stated that the eight foot and 15 foot setbacks were Dare County regulations at the time. He added that that the only reason for the change is to deal with the first floor of a building. Member Forlano clarified that it only applies within the footprint. Council Liaison Burdick agreed.

Chair Blakaitis moved to recommend approval of the text amendment as presented. Member McKeithan seconded.

Motion carried 5-0.

Discussion of Potential Sign Ordinance Amendments: Discussion of Concepts for Potential Amendments to Sign Standards in the Zoning Ordinance Consistent with the Recent U.S. Supreme Court Decision in *Reed v. Town of Gilbert*

Director Heard stated that the intent of this meeting was for the Planning Board to determine if there are particular concepts that they feel comfortable with or any concerns for the Board. He added that as he and Attorney Ben Gallop work together over the next few weeks to draft an ordinance with changes, they hope to have a better understanding of the directions that the Board would like them to consider.

Director Heard stated that there are two ways to look at the ordinance amendment. He stated that one was that the Board could develop an ordinance that meets every legal circumstance possible. He added that the other is to develop an ordinance that accomplished much of what is needed to do to address the Supreme Court's decision as well as remaining functional for the Town.

Director Heard stated that the key things in the staff report were also in a prior staff report and gave the Board the context of why the Board is considering these changes and what the Board needs to look at. He noted that the staff report shows what types of signs can no longer be regulated as well as what can still be regulated. He stated that at the last meeting, the Board had an initial list of sections that Attorney Gallop and he identified as items that needed to be discussed and considered. He added that there are a few additional items on the list but it is substantially the same as at the last meeting. He directed the Board to look at the second page of the staff report that talks about what has been proposed in the draft ordinance to address the issues. He noted that the sections highlighted in yellow are items with which it isn't easy to figure out what to do. He stated that the Board will have to discuss those items in order to decide how to classify those type of signs.

Member Cofield asked what was meant by "religious symbols" in the staff report. Director Heard stated that the term includes residential and religious properties and, for example, refers to someone that wishes to put a cross in their front yard. He noted that it is not necessarily related to a religious institution on the property and not referring to a specific church, but is an allowance under which the Town presently exempts anyone who wants to put up a religious symbol on their property. Member Cofield suggested a further definition on it. He added that when he read it, he didn't see a difference in religious signs and religious symbols. Director Heard stated that, depending on where the Board ends up with its recommendations, the suggestion could be that it not be addressed at all. He added that it could be something that the

Town can no longer specify and cannot single out religious symbols and treat them differently or offer greater allowances or restrictions on them.

Vice Chair Murray clarified that the items highlighted in the staff report are items that Director Heard thought that case law will require the Town remove. Director Heard stated that he is correct. He added that they will either have to be removed or re-categorized in some manner where the Board may be able to address those issues in a more indirect manner. Vice Chair Murray pointed out that the way it is explained, Attorney Gallop stated that if someone has to read the content of the sign to determine what it is, it cannot be regulated. Vice Chair Murray thought only size, shape and location can be regulated. Director Heard stated he was partially correct, adding that the number of signs, location, height, size, dimensions, lighting, differences between temporary and permanent signs, and differences between signs in different zoning districts can be regulated.

Member Cofield noted that historical markers are on the list. He hoped that there will be a way to define them to allow them. Chair Blakaitis stated that it is the Board's job in discussing the issue. He added that the Board can decide that they want historical markers allowed.

Director Heard stated there is currently an exemption for government signs. He added that one thing Attorney Gallop pointed out is that there are some provisions where government signs can be justified under a clause where they are required by law. He gave an example of the Town being required to post public hearing signs on properties. He noted that the Supreme Court decision stated that a certain type of sign could be singled out but must be required to be done by the State and/or the Town's ordinances by law or for public safety purposes. He stated that Attorney Gallop will look into this issue and offer advice to the Board, but that it can be interpreted fairly broadly. He stated that if the Board is discussing government signs for public safety, it can potentially include traffic and directional signage; the types of signs that the Town would set out for an event to tell the public where to park; and road signs or subdivision entrance signs. He stated that these items could be exempt from the decision as they are for a public safety purpose. He stated that exemptions not included would be signs where information is posted about a particular event but an allowance can be created for it within the CPR zoning district for the Town.

Vice Chair Murray understood that the Supreme Court decision is limiting what the Town can regulate. He asked if there will be limitations on the Town's sign. Director Heard stated that the Town can set whatever standard it wants to for signs on its property because that zoning district only encompasses the Town's property and the Corps of Engineers. He stated that different standards can be set from what is permitted in other districts.

Director Heard stated that Attorney Gallop recommended removing the clause prohibiting vulgar words from the ordinance. Member Forlano clarified that the Town cannot regulate what is put on a sign, vulgar or not. Director Heard stated he is correct. Member Forlano clarified that if someone wants to use a vulgar word on a sign, they can do it. Director Heard stated he is correct. Vice Chair Murray thought the fact that vulgar words were in the ordinance is illustrative of the urgency of the issue. Director Heard stated that Attorney Gallop recommended that it should be eliminated completely.

Director Heard stated that references to business signs located on waterways would be removed. Member McKeithan asked if navigational signs will still be permitted. Chair Blakaitis stated that those are government signs. Director Heard confirmed that these types of signs are consolidated in the definition under government signs.

Director Heard stated that there is a reference to off-premise signs, which limits billboards and signs popping up around town. He stated that, while they technically do not comply with the conservative interpretation of the Supreme Court's decision, preventing billboards and off-premise signs a basic tenet of the Town's sign ordinance and should be preserved if possible. He recommended a conversation with Attorney Gallop to determine how to maintain that concept. Chair Blakaitis clarified that an off-premise sign is a sign for a business not on their premises. Director Heard stated he is correct. Chair Blakaitis asked where in Duck would someone find room to install an off-premise sign when all properties are basically owned by individuals. He further asked if they would need permission. Director Heard stated that presently, the Town does not allow it. He added that it would keep things from popping up in Town in the future.

Director Heard stated that another prohibited sign would be one that was a pennant and when they could be used. He stated that there are provisions to allow the use by an educational or charitable organization. He stated that identifying specific types of users goes directly against the court case, so the draft is proposing to remove that wording as it relates to allow it for religious, educational or charitable organizations. He noted that all pennants will be treated the same no matter what their content is or who is posting the pennants.

Director Heard stated that there is a prohibition on tourist-oriented directional signs. He added that it cannot spell out specifically for that purpose, whether they are tourist-oriented or not. He stated that directional signs could fall under the government sign catch-all. He stated that there is a clause that prohibits people from using signs that imitate or closely resemble official signs. He noted that the main concern is that someone is using it in a way that they are trying to seem more official and misrepresenting something to the public. He added that the proposal would remove the specific item for non-governmental signs but would maintain provisions that would prevent people from imitating official traffic or government signs/signals.

Director Heard stated that Section 156.130(F)(2) lists signs that are exempt from permits. He stated that public notice signs are legally required and could be consolidated under the government signs. He stated that navigational aids will also be consolidated under government signs. He stated that there is a provision that deals with temporary noncommercial event signs and "noncommercial" would be removed so it will apply to all event signs. He stated that the bigger question is whether or not Attorney Gallop will recommend removing all event signs. He explained if the Town removed the wording, it will allow anyone to use a temporary sign/banner to promote an event, whether it is for commercial or non-commercial purposes. Member McKeithan clarified that they can do it without needing a permit. Director Heard stated he is correct.

Council Liaison Burdick noted that Director Heard had stated that signs can be categorized by zones. He added that it didn't mean the Town cannot do something, but meant that the Town has to be consistent in the zone that it's in if using that approach. Director Heard agreed, adding that the Town cannot single out the types of signs based on the use or content of the sign, but can put

them in categories such as residential property, commercial property and create subcategories such as free-standing signs, banners, wall signs, temporary signs and permanent signs. He stated that there are different ways that the categories can be created along with standards, but the tricky part is that as certain types of signs are lumped together into broader categories, the Board will need to determine the appropriate standards for signs in each category. They all have different standards now.

Director Heard stated that hunting/trespassing signs can likely be justified under the public safety clause as it is the intent of those type of signs. He stated that civic/public service announcements may be able to be consolidated under government signs. Some could be dealt with by looking at the C-PR District and applying standards for that district.

Director Heard stated that temporary commercial signs have a provision where it has an exemption for window signs for businesses. He stated that the Board could remove “commercial” and allow temporary window signage. He noted that it can be limited to commercial districts so the effect would be the same.

Director Heard stated that special event balloons/banners are items that could be for birthday parties, celebrating a birth, or a wedding. He explained that the issue is that it is for private use and celebration of special events, which will have to be removed to make it broader.

Director Heard stated that under Section 156.130(F)(3), business signs would have the word “business” removed so it will apply to all commercial signs. Vice Chair Murray clarified that Director Heard is not saying that commercial was a category that the Town is allowed to use, but is referring to the commercial district. Director Heard concurred, stating that it has to be tied to the locational aspect of a commercial district and not the use or content of the sign.

Director Heard stated that under Section 156.130(F)(4), references to flags of United States, North Carolina, and Town/County will be removed as it references the flag content. He stated that references to “business signs” will be removed and applied to all commercial signs.

Member Forlano asked if a flag or balloon is in a commercial district, the Town can designate the content. Director Heard stated that it cannot be done. Member Forlano clarified that the Town cannot prohibit what a business puts on a sign or flag. Director Heard stated that the Town can dictate where, what type of sign, and how many the business can put one up, but it cannot regulate the content. Member Forlano clarified that the only way to get around the content is to prohibit completely. Director Heard stated that the Town has provisions in place for commercial signs where banners are allowed on a temporary basis. Member Forlano stated that he is talking about the feather flags. He understood that some towns prohibit advertising businesses with them. Director Heard stated that the Town can choose to allow or not allow them, but the key is that the Town cannot dictate the message on the flag. Member Forlano felt that the Court decision is tearing apart Duck’s sign ordinance completely. Director Heard stated that it is requiring significant changes not only for Duck but for many other municipalities as well.

Director Heard stated that the staff report contains some ideas about how signs can be broken down to create categories that only deal with the location, type, size, height, lighting, etc. He

stated that one concept is to have a category of residential signs which is defined as being signs located within residential zoning districts. He clarified that it won't refer to residential signs based on the content of the sign, but on where the sign is located. He stated that it would be the same for commercial signs. He reiterated that certain standards would apply in residential zoning districts and different standards only in commercial zoning districts. He stated that under each of those categories, there are different types of signs that the Town has taken great care in developing standards to address the different needs. Now, the Town can no longer single out those types of signs.

Member Cofield stated that no parking, no beach access and private road signs should be somehow incorporated into the ordinance. Director Heard stated that the Town's ordinance did not presently address those signs, but thought an allowance can be created for them. Member Cofield suggested creating a category for signs on common area properties. Director Heard thought it was a good idea. Chair Blakaitis asked why the signs are prohibited under the Town's current ordinance. Director Heard stated that there isn't a specific reference to them in the ordinance and it will need to be addressed. Chair Blakaitis asked if there isn't a reference that needed to be corrected, why anything will need to be done. Member Cofield stated that it is because of the Supreme Court decision. Chair Blakaitis stated that if the Town cannot regulate content, the signs would be fine. Vice Chair Murray asked why the Board would want to make sure they are addressed if they are already allowed. Director Heard stated that, depending on how it's worded, the proposed amendments may not allow them. Vice Chair Murray clarified that the changes that the Board make may could prohibit those signs that Member Cofield brought up. Director Heard stated he was correct. Chair Blakaitis noted that another issue is if the Board comes up with a sign ordinance that allows a certain type of sign in a residential area, an association can still prohibit it.

Member McKeithan asked when the Board finalizes the ordinance for the Town, would it affect homeowner associations. Director Heard stated that it would. Council Liaison Burdick pointed out that the Town code has always been maintained as the top code in that if the homeowner association wants to do something more restrictive, they can, but have to meet the Town Code. Member Cofield stated that he would like to see these kind of signs addressed in some way that they aren't prohibited so that homeowner associations can continue to erect those kind of signs. Director Heard stated that those type of signs are ones that can potentially be lumped in the public safety category as beach access and private road signs are helping people understand them. We'll run that concept past Attorney Gallop.

Chair Blakaitis thought when the ordinance is finished, it will be prudent for Director Heard to implement the comments in another meeting. Director Heard agreed. Vice Chair Blakaitis thought it will be a great opportunity to limit signs by size and location. He asked if the standing request from the Planning Board can be that Director Heard and Attorney Gallop go through the ordinance and try to maintain the status quo, then have the Board see if there are any glaring issues. Director Heard stated that there is very little issue with the existing sign ordinance and staff is not getting a lot of comments on it.

Member Cofield asked Director Heard if he had a copy of the new Town of Nags Head sign ordinance. Director Heard stated that he does and pointed out that it was distributed in the

Board's packets at their January meeting. He stated that he will provide the Board with another copy if they need it.

Council Liaison Burdick noted that there is no possibility to preserve the status quo as it is gone. Member Forlano disagreed. Council Liaison Burdick stated that when it came to any references as to what is on the sign, it cannot be touched. He added that the necessary changes will significantly alter the Town's ordinance. He noted that it is a complete rewrite. Chair Blakaitis stated that items will be stricken from it and other items added. He didn't think it will require a complete rewrite.

Member Forlano stated that when the Planning Board crafted the sign ordinance originally, it took the Board about six months to do it with a lot of input from business owners. He added that they were not honing in on size, placement, etc. and didn't come up with content at all except for the vulgarity issue. He thought that there are two aspects under signs now that need to be looked at - physical characteristics and content. He thought it is a 50/50 issue since there aren't problems with regulating placement and size. He added that when the issue of content is added, there will be problems. He stated that the whole purpose of a sign is its content. He wasn't sure how the Board will be able to solve the issue as there can be all kinds of loopholes to deal with. Council Liaison Burdick agreed, adding that how a sign is constructed can be controlled, but not what is on it. Member Cofield thought the end result will be some signs down the road that the Board will not want to see from a content standpoint. He thought what the Town can regulate is the size and dimensions, which may be more of an issue going forward than it has been in the past. Council Liaison Burdick reminded the Board that the Town regulates the types of businesses permitted in Duck. He added that that was the way to get at that concern over content. He thought the Town has taken steps to minimize some of the potential concerns.

Director Heard stated that he will work with Attorney Gallop and bring back a draft ordinance for the Board to review.

APPROVAL OF MINUTES

Minutes from the January 11, 2017, Regular Meeting

Vice Chair Murray had a change to Page 11 of the minutes.

Chair Blakaitis moved to approve the January 11, 2017 minutes as amended. Vice Chair Murray seconded.

Member Cofield suggested the motion be amended as follows: move to strike the first two sentences of the last paragraph of Page 11, with a change from "He" to "Attorney Gallop" at the beginning of the third sentence.

Chair Blakaitis amended his motion. Vice Chair Murray seconded.

Motion carried 5-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Summary of February 1, 2017 Town Council Meeting

Director Heard gave an update on the February 1, 2017 Council meeting to the Board and audience.

Project Updates

Director Heard updated the Board and audience about several Town projects.

BOARD COMMENTS

Chair Blakaitis stated that Director Heard was going to look at the Town of Nags Head's ordinance to see how it was grouped and delineated to see if there were parts of the ordinance that would be helpful for this Board with regard to the sign ordinance. Director Heard stated that the proposal will likely use concepts from the Nags Head ordinance. Vice Chair Murray pointed out that Attorney Ben Gallop was asked at the Board's last meeting about using parts of the Town of Nags Head's ordinance and he stated that it was a bad template for Duck and didn't recommend using it. Director Heard thought there was a misunderstanding. He explained that Attorney Gallop was referring to the fact that Duck should not throw out its own ordinance and replace it with Nags Head's.

Council Liaison Burdick stated that the last Council meeting dealing with the special exception was difficult. He added that Council discussed after the meeting in terms of how the Town can improve its process on both the Planning Board and Council levels when dealing with special exception applications so there isn't a repeat of the last meeting. He stated that it will probably be discussed at the Council Retreat and he wants the Planning Board to think about how Council and the Planning Board can better communicate and work together with regard to special exception requests. He thought Council felt that in this case, the proposed solution was going to be detrimental to the adjoining property owners and that a better solution was needed, which is why it did not grant the special exception. He thought it would come back without all of the sand proposed and found it interesting that the applicant would go back to CAMA to obtain approval again. He urged the Board to think about the process and if there are things that can be done better or different to come up with the best decision.

Member Cofield thought that that there was a feeling of uncomfortableness on the part of the Council that alternatives and options had been adequately discussed. Council Liaison Burdick agreed. He added that issue that Council was uncomfortable with was that the applicant noted that they would be removing the pool in order to install the sand since it was the only access. He remembered at the Planning Board level that there was no discussion about the pool being removed, with the applicants reluctant to discuss it at the Council meeting until the end of the public hearing.

Vice Chair Murray pointed out that Council Liaison Burdick needed to point out to the applicants that the Town of Duck has their own standards and ordinances that they needed. He stated that in this case, there aren't standards in the ordinance that are adequate to deal with this issue. Council Liaison Burdick noted that it is beyond simply the standard order of fill and he was referring to looking at the Land Use Plan in that one of the items is to preserve the soundfront. He added that it is in the Land Use Plan and is what he is referencing. He agreed that there isn't an adequate definition in that area and is one of the reasons that Council agreed that the Planning Board needed to look at it and come up with a better set of standards for the Town. He thought in the meeting, the issue was that the proposal was inconsistent with the Town's Land Use Plan, the potential impact on neighbors could be significant, and approval sets up precedent in that they would be building a peninsula.

Vice Chair Murray understood Council Liaison Burdick's comments, but he felt that the interpretation that Council made on the Land Use Plan is one issue. He added that if they hung their hat on that, then he felt it was a fair decision. He stated that the question that Member Cofield raised is for looking at alternatives. He noted that it isn't the Planning Board's job as they are not design professionals, but it also creates a huge liability for the Town if the Board becomes a group that suggests construction techniques to a licensed professional engineer who has stamped a plan. Council Liaison Burdick stated that Council is not saying that. He thought what is being said was that the proposed plan does not meet the Town's Land Use Plan and an alternative needed to be found to accomplish the same result without the same problem. He reminded Vice Chair Murray that the issue came up with the Sanderling Inn when they wanted to put in a third story on their building and increase their height limitation. He added that Council told them that the Town's restriction is 35 feet and will not change. He stated that Council told them they would have to find an alternative way to accomplish what they wanted to do and they did. He stated that Council was not judging the designs other than to say it did not meet the Town's standards.

Vice Chair Murray pointed out that there shouldn't be a discussion of alternative designs. Member Cofield thought Council Liaison Burdick explained things appropriately. He thought it is the Board's job to ask anyone proposing a way to fix the problem – whether it was a lawyer or an engineer – to come up with alternatives. He added that the engineer came to the Board recommending one plan and did not adequately assess whether there were any other options. He stated that the option the applicant chose required the Board to have to permit the special exception. He thought there were options that the applicant did not explain or assess, whether there are options for that particular design and bulkhead problem that do not require a special exception. Vice Chair Murray agreed but disagreed on what the course of action is on the Board's part. He stated that in that situation, the Board's responsibility is to say that because the applicant does not meet the criteria for the special exception, the Board is denying the permit. He added that it is not because the Board had a better idea or is even interested in an alternative. He stated that if the applicant wants to discuss alternatives, they should come back with another application for an alternative design. Council Liaison Burdick stated that that is what Council told the applicant. Vice Chair Murray disagreed, adding that what he is hearing is an admonition to discuss other options in a public meeting, which he is not convinced is legal or at least a best practice. If the only issue is consistency with the Land Use Plan, he felt the Board is doing a disservice to the applicants. He thought the applicant should either meet the requirements or not

and they will be the requirements by which the Town grants a special exception. He felt that is why the Board was asked to work on the ordinance – to clarify those items.

Council Liaison Burdick noted that the issue is putting a peninsula in the sound because it is not what the Land Use Plan said when it comes to protecting the shoreline. Vice Chair Murray pointed out that, in this case, the Land Use Plan is registered with CAMA. Council Liaison Burdick argued that CAMA chose to make the decision they chose to make. Vice Chair Murray agreed, but pointed out that the Board asked in its meeting if the Land Use Plan, which CAMA required the Town to submit, was reviewed for this project and it was stated by the applicant that it was reviewed for compliance with the Town's Land Use Plan. He added that at least one other State authority approved the project. Council Liaison Burdick stated that he isn't sure where Vice Chair Murray is going with this comments, but he is trying to give information and state that Council looked at what had to be done. It became obvious at the discussion after the meeting that the process needs to be looked at since it didn't make any sense for the Planning Board and Council to spend so much time on the subject. He added that the question is if there is a better process that the Board and Council can work from that will simplify the issue.

Vice Chair Murray asked Council Liaison Burdick if he is asking the Board to think about something in addition to the corrections, amendments or strengthening of the ordinance. Council Liaison Burdick stated that he is. Vice Chair Murray clarified that Council Liaison Burdick felt that the Board should go further and change the procedure itself. Council Liaison Burdick stated that he did not know and wants to think about it.

Member Cofield stated that the discussion on Wampum Drive involved one of the requirements for the special exception, which was alternatives. He stated that the criteria for the special exception spoke to alternatives. Director Heard took a moment to review the ordinance and stated that reviewing alternatives is not a criteria for that type of special exception. Member Forlano clarified that there were four requirements. Director Heard stated that there are more than four. He explained that the criteria is that it was adequate for the proposed use in size and shape and the proposed use will not negatively affect adjacent properties; will not be inconsistent with objectives of the CAMA Land Use Plan; applicant has demonstrated that the requirements of this chapter are unreasonable or impractical due to unusual building design, lot shape or mature vegetation or there were practical siting constraints; it cannot be any greater than five feet in height; and the modifications have minimized loss of privacy; maximized the image of quality residential development on the street frontage and avoid reduction of lighting to neighboring properties. He noted that there is no requirement regarding alternatives.

Vice Chair Murray thought it can be put as a condition in the ordinance. He reiterated that the Board is bound by the ordinances and the way to streamline things is to make the ordinance better. He added that he is confused since the Board was already asked to do that. Council Liaison Burdick stated that he is referring to the process and how to go about it and how the Board and Council communicates with each other to maximize the effectiveness. He added that he talked to Director Heard about ideas but was not going to discuss them at this meeting. He thought the Board should think about how they can better communicate. Member Forlano thought that's what Council Liaison Burdick's job is. Council Liaison Burdick stated that he can't do everything.

ADJOURNMENT

Chair Blakaitis moved to adjourn the meeting. There was no second or vote.

The time was 8:27 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman