

**TOWN OF LAUDERDALE-BY-THE-SEA**  
**PLANNING AND ZONING**  
**REGULAR MEETING MINUTES**  
*Town Commission Meeting Room*  
*Wednesday, February 16, 2011*  
*6:30 P.M.*

Acting Chairman Wick said staff was advised that Chairman Oldaker and Board Member Freeny would not be attending the meeting and acknowledged there were no objections to the excused absences of Chairman Oldaker and Member Freeny.

Mr. Wick stated he was made Acting Chairman at the January 19, 2011, meeting due to the absences of Chairman Oldaker and Vice Chair Brandt. Mr. Wick asked for a motion to revert to the previous Chairman and Vice Chairman.

Mr. Hunsaker made a motion, seconded by Vice Chair Brandt, for the Board to revert to the Chairman and Vice Chairman as elected. The motion carried unanimously.

**I. CALL TO ORDER**

Vice Chairman Yann Brandt called the meeting to order at 6:30 p.m. and requested roll call of the members present. Members present were Vice Chairman Yann Brandt, Lawrence Wick, George Hunsaker and first alternate Eric Yankwitt. Also present were Bud Bentley, Assistant Town Manager, Jeff Bowman, Director of Development Services and Town Attorney Kathryn Mehaffey. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

**II. PLEDGE OF ALLEGIANCE TO THE FLAG**

The Pledge of Allegiance was recited.

**III. APPROVAL OF MINUTES - Planning and Zoning Meeting of January 19, 2011**

There being no additions, deletions or changes to the minutes, all voted in favor to approve the January 19, 2011, minutes as presented.

**IV. PUBLIC COMMENTS**

There were no public comments.

**V. NEW BUSINESS**

- Item #1:** Proposed Amendments to the Unified Land Development Code  
( Conditional Uses Within the Business Districts )

Jeff Bowman, Director of Development Services, reminded the Board staff had been working on business uses since 2010, and the Code had been amended and expanded. Conditional uses were discussed, though they were not part of the original notice of intent, and staff did a new notice of intent to add conditional uses, advising the Board they would be presented to those uses for a recommendation to the Commission. He reviewed the information on conditional uses located on the last two pages of the backup, items A through J, and a memo staff handed out to the Board with two additional recommended conditional uses: K, a pool supply store, and L, outside storage of propane tank cabinets for hardware stores and gas stations.

Mr. Wick sought clarification as to item I, primary use, asking if it pertained to such practices as a bank that rented out its parking lot after business hours.

Mr. Bowman affirmed this to be the case, noting the structure could also be a business building, an office, etc. that closed at 5:00 p.m. and whose parking spaces were unused during the evening hours.

Vice Chair Brandt remarked not being particularly comfortable with the last paragraph of the attached memo pertaining to conditional uses not listed. He wondered if by the language staff meant the Town's administration could, potentially, recommend allowing a new use and the Town Commission would have to approve the use.

Mr. Bowman responded the language in the last paragraph stated if the use being requested was similar to that of other allowed conditional uses, the use could be administratively approved if the Town Commission deemed it appropriate.

Town Attorney Kathryn Mehaffey explained it would be a two-step process; if a requested conditional use appeared similar to existing conditional uses, the Town Manager could take the request to the Commission. If the latter made the determination and the requested use was similar to existing conditional uses, the Town Manager could authorize the applicant to apply for the conditional use. At that point, the application would proceed through the standard procedure to the Town Commission for approval.

Vice Chair Brandt suggested the Board recommend changing the word "consult" to "with the approval of the Commission," as the word consult could be somewhat vague. He sought clarification as to paid private parking, querying if hotel parking qualified; and how staff determined business hours in order to identify what business could become a potential private parking vendor.

Mr. Bowman replied, for example, if a hotel with 130 spaces required the use of 100 spaces, the additional 30 spaces could be leased, though the 100 spaces could not, as hotels tended to be 24-hour businesses. An office building on Commercial Blvd., for instance, that provided its own parking and the entire building shuts down at 5:00 p.m., could elect to lease all their parking spaces after business hours. Business hours were determined by the time the particular business closed each day.

Vice Chair Brandt wished to know if there was any language in the Code that classified hotels as 24-hour businesses. He repeated his question as to what staff was using to determine when a business was considered closed for the day and whether the situation was completely subjective?

Mr. Wick felt the situation was subjective, as the hours of operation depended on the type of business. Though some banking was available 24 hours, the bank closed at a set time and the banking staff was no longer on the property; the bank was then free to rent the parking spaces after the staff left. Despite the process being subjective, he did not foresee a major problem; all hotels were open 24 hours a day as long as they had at least one patron.

Vice Chair Brandt questioned when a hotel was not fully occupied, could the unused parking spaces be rented. There appeared to be a lot of room for interpretation. The Board previously discussed the Town's budget shortfalls for the Town's taxpayer-owned parking lots being in the region of \$60,000 to \$70,000 range, and he wondered if the Town was potentially losing volume on Town parking lots if private parking lots would be competing by making spaces available.

Bud Bentley, Assistant Town Manager, commented first as to the interpretation of business hours and how hotels were seen, noting at a prior staff debate, he took the position that hotels should be included, and an hour selected, such as eight o'clock, by which if a room remained vacant, a hotel could consider the dedicated parking space an excess spot. As this was such a day-to-day issue for hotels, staff was unsure how to effectively include this in the conditional use section of the Code; the dilemma applied to any 24-hour business with fluctuating parking space usage. On the issue of employees staying after hours, etc., such as a bank, he understood in some buildings the bank was on the first floor and other businesses were housed on the floors above; thus, the hours of operation could vary. He pointed out the conditional use for renting unused parking spaces after business hours was site and condition specific, and the process was fairly manageable and could be reviewed by Town staff on an ongoing basis. On the second matter of the effect on the Town's revenue from its taxpayer parking lots by permitting the renting out private parking spaces, he understood there were drivers parking in areas after business hours without the business owner's permission. For example, it was common practice to park at the SunTrust bank parking lot. However, when the bank began charging to use their parking lot, he expected people to make an economic market decision on how much they would pay to park at SunTrust versus what the Town charged, and if the Town's parking lot was closer to their destination, they would decide where to park accordingly.

Mr. Wick asked if parking permits could be issued to open up more spaces in Town parking lots, such as on A1A, to make employee parking available at a discounted rate.

Mr. Bentley believed, at present, a parking permit in the employee parking area was approximately \$22 per month; the last time the Commission visited the matter in 2010, they provided for permit parking in the A1A lot for \$25. Thus, if someone worked east of A1A and for about \$3 a day they did not have to walk the extra three blocks, this seemed a great value. He commented not many people had availed themselves of the service, but that it had more to do with the Town not marketing the service and less to do with the economics of it. The Town Commission was holding a workshop on the coming Tuesday at five o'clock on the parking exempt program and, as staff collected data

that might be useful in the Commission discussion. The data included a full parking inventory of the paid spaces, employee parking, the non-metered spaces, etc. Staff also did some utilization counts in the past week and a half and would continue doing those through to the weekend, and so be able to share with the Commission some rough data on the utilization of Town parking in certain areas. He remarked there would at least be a baseline for them to look at to examine the impact of certain future actions.

Vice Chair Brandt inquired if the conditional use application included pricing.

Mr. Bentley did not think pricing was specifically asked for on any of the applications in the procedures he recalled.

Town Attorney Mehaffey confirmed pricing was not presently included in the procedures.

Vice Chair Brandt questioned if staff expected any franchises use taxes to be imposed by the Commission.

Mr. Bentley was unaware of any franchise, though there might be some with regard to a retail sale, and there would be sales tax responsibilities. He stated this was not an area in which he was an expert and preferred not to offer an opinion.

Vice Chair Brandt reiterated his concern that the changes could create less flow to the Town's parking lots and thus harming the revenue coming to the taxpayers, as the Town had an internal debt service from its parking lots to the General Fund. He supported the concept of private spaces, but even at the Town's current rate of \$1.25 or \$1.50 an hour, it was possible a patron would prefer to play a flat fee of \$5 or \$10 to park at a private lot, or feed quarters into a parking meter. Until the Commission chose to act on something that increased the stimulus of the flow of parking, opening all the possible parking lots, it was important to protect the taxpayer from losing revenue, and it seemed the recommended reduction of 15 spaces could harm taxpayers' revenue from the Town's parking lots.

Mr. Hunsaker believed the Commission's directive to staff was to broaden the Code to become more business friendly, to increase the possibility for businesses to rent out their parking lots. He had no wish, therefore, to become involved with devising restrictions that were so great it was not economically feasible for businesses to try to rent out their unused parking spaces.

Vice Chair Brandt clarified he was not against conditional uses as a whole, but he would hold off removing exceeding the minimum parking requirements by 15 or more spaces.

Mr. Yankwitt thought the Town received a certain percentage of the sales tax revenue.

Mr. Bowman affirmed this to be the case.

Mr. Yankwitt observed, as the Town increased the number of available parking spaces, paid or nonpaid, more people would be encouraged to visit the Town. In theory, this would increase revenue to the Town.

Mr. Bentley remarked sales tax was distributed in the state of Florida per capita within a county. Thus, the Town would not get the exact amount in sales tax that occurred in Lauderdale-By-The-Sea. He mentioned the SunTrust building was available to serve both east and west of their location, though his whole focus had been on the waterfront area. Staff recently prepared a map to illustrate the relative distances, and SunTrust was about 550 feet to the A1A intersection; the A1A lot was about 290 feet to A1A intersection; El Prado was 800 feet to the A1A intersection; and from Tradewinds to Sea Grape, the whole stretch of Commercial Blvd. was around 1,500 feet. Thus, there were very different walking distances for which the various parking lots would provide. He said the employees would park at such distances, and people attending special events would park at greater distances, but someone going to dinner tended to park closer to their destination. The aim of the present recommendations was to widen the range of parking options to better serve the Town.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to pass Item #1 Proposed Amendments to the Unified Land Development Code for conditional uses within the business district to the Town Commission for approval.

Mr. Wick made a motion to amend the main motion, seconded by Mr. Yankwitt, to include in the conditional uses as recommended by Town staff:

- K. Pool Supply store
- L. Outside storage of propane tank cabinets for hardware stores and gas stations

Mr. Hunsaker observed staff's recommendation included exceeding minimum required parking and striking 15 or more spaces. He wished to clarify Mr. Wick's motion was not to approve this recommendation, it was only to add items K and L noted in the memo to the list of conditional uses.

Mr. Wick affirmed this to be the case.

In a roll call vote for the amendment to the main motion, the motion carried 3 – 1. Vice Chair Brandt voted in the negative.

Mr. Hunsaker requested a second amendment to the main motion, seconded by Mr. Wick, to strike the verbiage “fifteen or more spaces” in Conditional Use I pertaining to “Paid Private Parking.”

In a roll call vote for the second amendment to the main motion, the motion carried 3 – 1. Vice Chair Brandt voted in the negative.

Mr. Bowman asked about the conditional uses not listed.

Vice Chair Brandt remarked no amendment had been forwarded in this regard as yet. Specifically, staff was referring to the paragraph that gave the administration the ability to consult with the Commission on conditional use requests for uses that were similar to existing conditional uses in the Code for their approval.

Mr. Hunsaker requested a third amendment to the main motion, seconded by Mr. Wick, to accept the verbiage for conditional uses not listed as written by staff which states, “ Any conditional use not covered by the above list may be authorized by the B-1 district by the Town Manager or designee only if the proposed use is similar to a listed conditional use; otherwise, an amendment to this chapter is required. The Town Manager or designee shall consult with the Town Commission on any proposal to find that a conditional use is similar, prior to authorizing such conditional use in the B-1 district.”

In a roll call vote for the third amendment to the main motion, the motion carried 3 – 1. Vice Chair Brandt voted in the negative.

There being no further amendments to the main motion, a roll call vote was taken to approve the main motion to pass Item #1 Proposed Amendments to the Unified Land Development Code for conditional uses within the business district to the Town Commission for approval to include amendments 1, 2 and 3 as stated above. The motion carried 4 – 0.

**Item #2: Proposed Amendments to the Unified Land Development Code ( Conditional Use Procedures )**

Mr. Bowman reviewed the backup material, noting with abovementioned conditional uses the Board recommended for approval to the Commission, along with other conditional uses in the Code of Ordinance, there was no central or specific location in the Code addressing procedures for conditional uses. Hence, staff was recommending the Code be amended for procedures for conditional uses.

Vice Chair Brandt questioned the last page, item E, subparagraph 1, the “level one” amendment.

Mr. Bowman elaborated there was a level one and a level two: Level one pertained to minor changes or deviations from a conditional use permit that could be approved by the Town Manager or designee; Level two was implemented if the change was considered major, and the applicant had to go through the entire application process again and get Commission approval.

Vice Chair Brandt felt the terms minor and major were very subjective and wished staff to explain what was considered minor versus major changes. For instance, would a five-foot setback be considered a minor change.

Mr. Bowman responded if the applicant was requesting going from a ten-foot setback to a five-foot setback, that was considered a major change.

Vice Chair Brandt thought, as it pertained to items related to density, setbacks, etc., the language should be more specific; before deciding on whether to recommend approval or not to the Commission, the Board should consider including language in the amendment that classified changes to setbacks and density as “major” rather than “minor” in the conditional use site plan application procedure.

Mr. Wick believed density could not be changed, though setbacks could.

Vice Chair Brandt indicated he was referring to the conditional use site plan; any changes to that portion of a site plan. Thus, if something passed, even if it was within the Code, level one allowed the Town Manager or designee to make a decision of approval at their own discretion. What might be considered minor to one person could be considered as major to another, particularly with regard to site plan changes.

Mr. Yankwitt wondered if it were possible to include a definitions page or a key for clarification, as the size of property varied.

Mr. Hunsaker stated conditional uses were created due to it being impossible to be specific about all issues. It seemed unnecessary to discuss the matter in greater detail, as staff tended to send matters for a Commission decision in error rather than to approve them in error.

Therefore, he felt it unnecessary for the Board to include in the language definitions of what was considered minor or major changes, as staff tended to make most changes a level two and seek guidance from the Commission.

Vice Chair Brandt suggested making level two require a new application, and level one should reflect the change(s) and must receive Commission approval. If the minor change had staff's consensus, it could be placed on the Commission's consent agenda and passed with little or no discussion. If a problem was foreseen, a Commissioner could pull the item for further discussion.

Mr. Hunsaker disagreed, stating one of the reasons for having a Town Manager was to maintain a degree of professionalism. Vice Chair Brandt's suggestion, essentially, stripped the Town Manager of his/her authority by having even minor changes going before the Commission.

Mr. Wick inquired if having minor changes go before the Commission for approval made any difference other than a possible delay in the process.

Town Attorney Mehaffey replied, as well as the delay, there was added expense associated with the delay.

Mr. Wick felt the goal was to work with the Town to help attract new businesses and keep existing businesses by reducing their expenses.

Vice Chair Brandt supported an expeditious procedure; however, he claimed an admitted lack of trust in Town Manager approvals, intending no disrespect or contempt to the current administration. Until that trust was reestablished, he preferred to rely on the elected body he and his fellow citizens voted for to make such decisions. If no fellow members of the Board wished such an amendment to be made, he would entertain a motion to approve item #2 amendments as presented by staff.

Mr. Wick made a motion, seconded by Mr. Hunsaker, to pass Item #2 Proposed Amendments to the Unified Land Development Code conditional use procedures to the Town Commission for approval.

In a roll call vote for the main motion, the motion failed 2 – 2. Vice Chair Brandt and Mr. Yankwiitt voted in the negative.

Vice Chair Brandt wondered if a motion to not recommend Item #2 was in order.

Mr. Wick recalled some four or five years previous, the Town Commission requested the Board not make negative motions.

Town Attorney Mehaffey confirmed there was language to the effect that the action in a motion should only be taken in the affirmative. This meant a failed motion was not necessarily a recommendation, versus an affirmative vote contrary to that or to implement a failed vote would be an affirmative vote to deny. However, the Board could entertain either proposed revisions or recommendations to revise certain portions of the proposed amendments that might be more favorable and considered differently. She pointed out, in boards the size of the P&Z Board, under Robert's Rules, the chairperson could act as any other board member, including making motions and seconding.

Vice Chair Brandt observed the Commission act similarly at times, but he usually refrained from doing so as a matter of courtesy.

Vice Chair Brandt made a motion, seconded by Mr. Wick, to pass Item #2 Proposed Amendments to the Unified Land Development Code conditional use procedures to the Town Commission for approval.

Vice Chair Brandt made a motion to amend item #2 Proposed Amendments to add level one amendments must be approved by the Town Commission, seconded by Mr. Wick.

Mr. Yankwiitt thought some language should be included that gave direction to the Town Manager. There should be some parameters established, particularly for future administrations, and they should include some definition as to what was considered level one and level two changes. If the decision was passed onto the Commission, then there was little need to develop a formal definition, though it would delay the process. He supported the inclusion of a decision table for attachment to level one and two in whatever manner staff could devise it; extreme cases were easier to categorize as minor or major, but it was the middle ground changes that were less easy to classify.

Mr. Hunsaker opined the subject procedure was an attempt by Town staff to establish a unified policy and procedure on conditional uses. If the suggested revisions by Board members were not included by the Commission, the latter still retained the authority to approve conditional uses; there was just no standard for that purpose. He reiterated Item #2 was an attempt to codify the conditional use approval process.

Vice Chair Brandt remarked that though a conditional use was approved by the Commission, an amendment to that conditional use could be requested; if it were minor, it would not have to come back to the Commission for approval, rather the change could be approved by the Town Manager at his/her discretion if they thought the change minor. He then withdrew his motion to amend and recommended tabling item #2 until there was an odd number of Board members present to vote.

Mr. Wick withdrew his second and made a motion to table item #2 to a date certain.

Mr. Bowman explained the Town's Code contained a section in the site plan procedures that addressed the issue of major and minor changes. Staff could include language in the proposed amendments, reverting to existing definitions under site plan procedures in the Code if this would gain the Board's confidence in moving forward with a recommendation for approval to the Commission on item #2.

Mr. Wick withdrew his motion to table.

Mr. Bowman went on to read the definitions of major and minor changes as reflected in the existing Site Plan Procedures under Chapter 30, section 54, subsection M.4 A, B and C.

Vice Chair Brandt maintained the interpretation of the language pertaining to minor and major changes was still too subjective.

Mr. Yankwitt observed if the Board passed item #2 with the amendments as stated, the Board could discuss the language at a later date.

Vice Chair Brandt pointed out if the Board passed staff's recommendations for item #2 going forward to the Commission for approval, the Board would not see the matter again before the Commission voted.

Mr. Wick made a motion to amend the main motion, seconded by Mr. Yankwitt, to include referrals to Chapter 30 Section 54, Subsection M.4 A, B and C that pertains to Site Plan Procedures for minor and major modifications.

In a roll call vote for the amendment to the main motion, the motion carried 3 – 1. Vice Chair Brandt voted in the negative.

There being no further amendments to the main motion, a roll call vote was taken to approve the main motion to pass Item #2 Proposed Amendments to the Unified Land Development Code Conditional Use Procedures to the Town Commission for approval with an amendment to include referrals to Chapter 30 Section 54 Subsection M.4 A, B and C that pertains to Site Plan Procedures for minor and major modifications. The motion carried 3 – 1. Vice Chair Brandt voted in the negative.

### **Item #3: Proposed Amendments to the Unified Land Development Code ( Generators )**

Mr. Bowman indicated the current Code on generators limited the size of fuel tanks for generators to 250 gallons, which staff discovered was not large enough to meet the demands of highrise buildings. State Statute said if the building was 15 or more stories with an elevator, it must be possible to run the elevator's emergency equipment and fire suppression systems in the event of a disaster for five days. On a tank of 250 gallons, this would be impossible. Staff recommended revising this portion of the Code; specifically, the language in section d for single family and duplex structures that was recently added also applied. Under number two, the size of underground tanks was increased from 250 to 500 gallons but kept 250-gallon size to aboveground tanks. Section e dealt with all other districts, including commercial and multi residential buildings. The language basically said if the building owner was in compliance with the Florida Fire Prevention Code, they were permitted to install a tank with a capacity greater than 250 gallons. He noted that if the tank exceeded 1,000 gallons and was not located underground or in a garage, they had to go through site plan review. He proceeded to provide a slide presentation for further illustration of tank sizes and their location.

Mr. Wick questioned if the proposed changes regarding tank size was relatively standard for other Broward municipalities.

Mr. Bowman affirmed this to be the case, noting staff checked with other districts.

Mr. Wick sought confirmation such practices appeared not to have led to any adverse outcomes.

Mr. Bowman answered, no, they had not.

Mr. Yankwitt asked, from a safety standpoint, why the tanks were being allowed above ground at all; it seemed such tanks would be safer underground.

Mr. Bowman replied to the negative as to 250-gallon tanks being placed above ground posing a safety issue.

Vice Chair Brandt queried as to section d for the aboveground tanks for single family and duplexes, whether they had setback requirements. He was viewing the situation from a perspective of functionality.

Mr. Bowman affirmed there were setback requirements, referring to the last sentence of subsection one pertaining to the enclosure and screening requirements of the tank from neighboring properties.

Town Attorney Mehaffey commented, under section a(1), if the generator was less than 60 Kilowatts, the required setback was five feet from the property line; if the generator was over 60 kilowatts, the generator and the tank would have to be setback according to the setback requirements for the principal structure under section b(1). Under section d, the first sentence said single family and duplex tanks were subject to the same setbacks and location requirements for generators; that is, the requirements set forth in a1 and b1.

Vice Chair Brandt observed some tanks were round in nature and wondered if it were possible for most single family homes to put a tank next to their home and still meet the setback requirements, or would the tanks have to go below ground in the front or backyard; it was a matter of functionality.

Mr. Bowman believed most tanks found at single-family homes and duplexes would be under 60 kilowatts.

Vice Chair Brandt indicated his neighbors had them both below and aboveground, and most of those sat in the front yard, while others had them to the side of their homes. He wondered if he had to install a generator on his property, would he have to pull up his entire driveway to place it in the front yard. It appeared to be more of a safety matter for many residents having quick and easy access to their generators. If there had to be a fence around the generator, blocking its view from the neighbors, what was the goal of the setback requirement; as the surrounding wall had to be at least four feet high.

Mr. Wick responded it was for aesthetic purposes, as with most setbacks; the neighbor would likely oppose having a generator and/or tank too close to their property.

Mr. Bowman explained a setback for generators was specified but he was unaware of a specified setback for tanks.

Town Attorney Mehaffey repeated her earlier statement regarding setback for tanks at single family homes and duplexes being the same as for generators, as indicated on the first line of section d1 and e1.

Vice Chair Brandt felt section e1 had much more opportune space. He wished to devise a way to make it possible for more residents to have the tanks/generators, as the southern portion of the Town did not have ready access to natural gas or propane, and tanks were necessary if they wanted to install a generator. Most homes to the south of the Town would have to put the tank below ground due to their inability to meet setback requirements. Thus, residents would find the situation cost prohibitive with regard to installing a generator/tank.

Mr. Yankwitt wanted to know if there were any facts and figures available as to the value of a property with a belowground tank versus above ground, and whether an aboveground tank reduced property value.

Mr. Bowman said he was unaware of such data, and an above ground tank would be hidden from view by a wing wall.

Mr. Yankwitt stated he felt wary of the disadvantages of having an above ground tank, including possible vandalism, effects of lightening, etc.

Mr. Wick made a motion, seconded by Mr. Yankwitt with a request for further discussion, to pass Item #3 to amend Section 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts to the Town Commission for approval as presented by staff.

Mr. Yankwitt wished to amend the language, changing the wording from aboveground to placing all tanks belowground; even if the setback and wall requirements could be satisfied, an aboveground tank was an eyesore.

Town Attorney Mehaffey sought clarification the motion was for all tanks to be placed below the ground for single family, duplexes and commercial properties.

Mr. Yankwitt responded only for single family homes.

Vice Chair Brandt questioned if Mr. Yankwitt desired single family properties to be separated from duplexes as to how the amendment should be applied.

Mr. Yankwitt affirmed this to be the case.

Mr. Hunsaker inquired if the entire ordinance was before the Board for consideration or was it just the amendment.

Vice Chair Brandt answered the entire ordinance was before the Board.

Mr. Yankwitt felt there were safety and aesthetic issues and made a motion to add an amendment to the main motion to change section d. (1) requiring all single family homes to place fuel tanks underground. The motion died due to lack of a second.

There being no further amendments to the main motion, a roll call vote was taken to pass Item #3 to amend Section 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts to the Town Commission for approval as presented by staff. The motion carried 3 – 1. Mr. Yankwitt voted in the negative.

## V. OLD BUSINESS

Item #1: Proposed changes to the sign regulations.

Vice Chair Brandt reminded the Board of prior discussions on sign regulations, stating the numerous discussions on the ordinance included an examination of a matrix of different signs, sizes, shapes, forms, as well as uses in the districts they were permitted. Staff separated the signs according to a color coordination, as indicated on page two in the backup. He went on to distinguish subsection d: no right to appeal. He understood from discussions with staff that the amendment was not a departure from the current Code but was, potentially, an oversight, as the Town appeared to be tying the hands of an applicant requesting a straight forward sign permit. If the sign did not require Commission approval and Development Services viewed the requested sign in a negative light and declined it, the appeal process did not allow for the Board of Adjustments or the Commission to consider the matter, and it would go straight to court. He thought an alternative was needed to make the process more user friendly and include a step in the recommendation for approval to the Commission unless there was a legal issue.

Town Attorney Mehaffey concurred, stating the existing text did not preclude a variance application; any denial by the administration simply meant the sign did not meet the requirement of the Code, at which point the applicant could apply for a variance and go through that procedure. Another option was the zoning relief procedure that was adopted and implemented in the Code; it provided a final avenue of appeal for any Constitutional issues or situation the applicant felt was a violation of their rights under state or federal law.

Vice Chair Brandt commented as long as the administrative ruling did not preclude the applicant from doing a new application under a variance, he was satisfied.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to pass the "Proposed changes to the sign regulations" to the Town Commission for approval as presented by staff. The motion carried 4 – 0.

Vice Chair Brandt pointed out, in the near future, the Board would see another item come from staff concerning electronic signage, as indicated by the package in the Board's backup, when staff was prepared to recommend more language for approval.

## VI. UPDATES/BOARD MEMBER COMMENTS

Mr. Wick commented next Wednesday evening he hoped to see everyone at the Chamber of Commerce for the "Taste of the Beach" event.

Mr. Yankwitt requested staff acquire feedback from real estate agents or property managers on aesthetics to facilitate a clearer understanding on the Board's part on how property values were affected by the Board's decisions.

Vice Chair Brandt congratulated Bridget Doria, the manager of BB & T and Sea Ranch on her election as President of the Town's Chamber of Commerce. He hoped to see Ms Doria at future Planning and Zoning meetings and looked forward to working with the Chamber. He too recommended everyone attend "Taste of the Beach." Mr. Brandt said many of the public events were gearing up for planning, and if anyone wished to become involved in the planning stages, the Commissioners assigned to each project were always looking for residents and citizens to come forward and help out.

Town Attorney Mehaffey mentioned staff and the Town's Attorneys were asked to research the possibility of allowing wine bars in the business districts, either as a permitted use or a conditional use. While it was possible under State law to draw a distinction between wine, beer and liquor, at present they were unable to find a distinction between beer and wine. She commented, as the distinction could not be found or a clear way in which to accomplish the Commission's goal of accommodating only wine bars, the matter was not presently before the Board. She wished only to give the Board an update, as the matter was on the Commission's agenda for discussion.. The next matters for consideration after conditional uses pertained to the development review procedures.

## VII. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:55 p.m., February 16, 2011.

ATTEST:

\_\_\_\_\_  
Chairman Alfred Oldaker

Date Accepted: \_\_\_\_\_

Colleen Tyrrell, Board Secretary

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