

*November 2005. A piece written in response into a petition from realtors and commercial property owners and an editorial from the Pilot "Needed: Sensible Development Rules" 11/16/2005*

"Arbitrary," "Capricious," "Draconian." Those are strong words- words a group of petitioners and even the Pilot editorial board have used to describe how the Southern Pines Town Council has treated potential new business development lately.

One of the sore spots seems to be the Council's handling of the architectural review process, so let us really take a look at it since neither the Pilot editors nor more than a handful of the 68 petitioners have ever been in the room during a workshop where we have sat at a table and discussed plans with a developer.

To explore the architectural review process, one must first look at our existing ordinance. The clear and objective parts of the ordinance have to do mainly with technical specifications such as the percentage of a wall that windows can cover, roof pitch, and allowable building materials. The other part of the ordinance speaks to harmony and compatibility with the surrounding area and with the overall character of the Town. There is not much in the ordinance which gives a developer or the person or group in charge of architectural review guidance as to what makes a building harmonious and compatible with the Town. Hopefully, a new ordinance can make this clearer with text and illustrations which help point out the special defining characteristics many of our existing structures have. The goal should/will not be to make all commercial buildings look exactly the same. Rather, it will be to make sure all new commercial buildings look like they *belong*.

The petitioners and the Pilot have said that decisions of the Council, acting as an architectural review board, should really be in the hands of staff. It has been said that architectural review should not be based on a "councilman's taste." Apparently, they would prefer that architectural review be based on the "taste" of a staffer instead of a board of five people elected by the citizenry and with varying opinions working to reach a consensus. They are certainly entitled to that opinion, but it doesn't fix the ordinance and it doesn't do anything at all to keep a motivated developer from putting enormous pressure on a staff member to define "harmony" the developer's way.

Let's go on to the review process. First, a developer submits plans to the town, which are then distributed to the staff and to the Council. The plans are typically reviewed by all parties before a Council agenda meeting, where the developer is invited to be present to go over the plans with the board. Almost every single time, the first question a councilmember asks is if staff has reviewed the plans and if they find them to be in compliance with the technical portions of the ordinance. Sometimes, the plans are found to be in compliance and other times there need to be changes such as adding fenestration to a wall or other technical requirements.

After the technical requirements are ironed out, the conversation continues to the "harmony" and "compatibility" part of the requirements. This is likely the part we're

accused of being draconian, etc. about. Typically, in the days leading up to the meeting, board members have visited the building site and made note of the general surrounding area and structures. What follows in the meeting is a discussion among all parties involved as to how well the proposed building fits in. There is often quite a bit of discussion as to the style and construction of existing buildings in the area. All members of the board put in a diligent and good-faith effort to define “harmonious” and “compatible” using the context of existing neighboring structures as well as the building’s location as it relates to different areas of town.

The question then becomes, “how can the current architectural review process be draconian or arbitrary?” First, it differs from the previous process mainly in that the Council, instead of staff, comes to a consensus on the definition of “harmony.” It certainly couldn’t be “arbitrary” (determined by chance, whim, or impulse, and not by necessity, reason, or principle) since the ordinance-relevant discussion always relates the proposed structure to the surrounding areas and is based on a consensus of five board members. Is it “draconian” (exceedingly harsh; very severe)? Is “draconian” exemplified by requiring a building be comparable in quality of materials and in harmony with surrounding structures and areas? Perhaps these questions are irrelevant since neither the author of the petition nor the Pilot editorial board have actually attended a workshop where the process takes place.

I don’t know how the architectural review process will end up once we get a better ordinance in place, but I hope a review board will be made up of average Southern Pines residents and not be stocked full with contractors and commercial developers as the petitioners suggest it be. As the Pilot said in their editorial, “we’re not letting the fox set the rules for the henhouse.”