

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
August 13, 2008**

The Planning Board for the Town of Duck convened at the Duck Municipal Offices at 6:30 p.m. on Wednesday, August 13, 2008.

Present were Chairman Jon Britt, Vice Chair Joe Blakaitis, Ron Forlano, John Fricker and Claiborne Yarbrough.

Absent: None.

Also present were Director of Community Development Andy Garman, Council Liaison Dave Wessel and Permit Coordinator Sandy Cady.

Others Present: Ben Vorndran and Miles Thomas.

Chairman Britt called to order the Regular Meeting of the Planning Board for August 13, 2008 at 6:32 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Director Garman introduced Miles Thomas to the Board as the Town's Planning intern for the summer. Chairman Britt and the Board welcomed Mr. Thomas.

Discussion of Planning and Zoning for Renewable Energy

Director Garman suggested obtaining feedback from the Board regarding the research that was provided so far on renewable energy and then moving to a macro level discussion before the Board begins to discuss specific policies or ordinances. He stated that most of the information he had for the Board was related to wind energy. He stated that he had researched items that show what the potential was for wind energy including wind resource maps and noted that the North Carolina coast was in the 3-4 range for wind energy, which represents good potential for developing it. He reviewed the wind energy maps with the Board and noted that they were designed to give an overall idea regarding wind resources. He stated that Ben Vorndran was trying to obtain a wind meter (anemometer) through the State.

Chairman Britt stated that he was looking to put in a wind meter on his property. He noted that it was a recordable one. Ben Vorndran stated that the State of North Carolina had ten (10) meters that they were working to distribute to applicants for research in this area.

Director Garman noted that the Outer Banks ranks at a three (3), but seasonally could get as high as a six (6). Vice Chair Blakaitis thought it was hard to believe that the Outer Banks was only a three (3). Director Garman stated that it was because there just wasn't enough data. He stated that the GIS data can be very helpful as the Board looks at the issue; such as looking at setbacks based upon the height of the turbine. He went on to review with the Board a map that detailed possible locations for wind turbines based on height and size of a tower.

Ben Vorndran noted that the typical minimum height for a wind tower would be forty (40) feet. Member Fricker pointed out that the literature suggested that they should be thirty (30) feet above the highest adjacent structure, which would mean they should be seventy-five (75) feet to capture their full potential. Director Garman noted that there were areas in Duck that had between one hundred twenty (120) to one hundred sixty (160) feet between an adjacent structure. He went on to review the areas in Duck that would be good places for a wind tower.

Member Forlano felt that setbacks and property lines needed to be considered to protect the public. He suggested looking at the Town Park for a place to put in a wind tower. Ben Vorndran thought that the zoning aspects would require some type of permission from the adjacent property owners with regard to installing a wind tower on a typical residential property. He pointed out that the wind tower in Kill Devil Hills could withstand winds up to 140 miles per hour.

Vice Chair Blakaitis didn't think the Board needed to get too tied up with the issue as they are developing opinions and policies. He stated he was not sure it would be feasible in residential areas because the lots are so tight. Member Forlano asked if there were any lots over one (1) acre in Duck. Director Garman stated that there were 426 lots that were greater than a half (1/2) acre and approximately seventy (70) lots were over an acre. He explained that the data was a bit skewed since it included common areas and the Corps of Engineer property. He stated that rather than basing the research on lot size, he thought performance would be more useful. Chairman Britt stated that he liked the idea of performance criteria.

Vice Chair Blakaitis asked if a homeowner wanted to put up a wind turbine, would there be restrictions or permitting requirements. Director Garman stated that the Town has height restrictions of thirty-five (35) feet. Vice Chair Blakaitis pointed out that the height restrictions were for buildings. Director Garman stated that there was an exemption that would give an owner an additional five (5) feet for certain appurtenances or building features. Chairman Britt stated that it was specific to the architecture. Vice Chair Blakaitis asked if the language could be expanded to include wind turbines as being structures. Director Garman thought it could be and that it would be treated as a structure.

Member Forlano asked if the Town came up with a tower ordinance in the past. He thought the Town had an ordinance that regulated towers. Director Garman stated that the ordinance deals with wireless communications towers.

Vice Chair Blakaitis asked if the Board would plan to make the issue a special use permit or an outright permit. Director Garman stated it would be up to the Board to decide. He stated that he would see it as by-right with certain restrictions and beyond those standards it would require either a special use or conditional use permit. Chairman Britt didn't think the Board would want to do it as a by-right situation.

Member Yarbrough noted that the documents all called for public involvement. She stated that it would be helpful to obtain public input, especially with the learning curve that can be expected. She thought it should be more sophisticated than a public survey on the Town website. Vice Chair Blakaitis noted that Council had indicated that they wanted several public hearings on the issue. Member Yarbrough thought that public education would be helpful. Member Fricker thought the Board needed to be educated about it as well in order for the public to provide input. Member Forlano agreed and thought the Board could be educated by experts such as North Carolina State Solar Center. He thought they could come in and have a work session with the Board on the issue.

Member Yarbrough stated that one of the articles she read suggested a white paper approach with a visioning group to show the pros and cons of alternative energy. Vice Chair Blakaitis asked if an objective had been set forth and a vision statement for why the Town was looking into the issue. Director Garman stated that Council had asked the Board to look into the issue and thought initially it was started to answer specific questions that were received regarding wind turbines. Vice Chair Blakaitis asked if the Town of Duck would be a proponent of renewable energy. Director Garman stated that the vision and objectives were not his role to develop.

Member Fricker stated he did not interpret Director Garman's memorandum to read that Council wanted the Board to develop criteria. He thought the language was neutral as Council wanted the Board to address all forms of renewable energy. He read portions of the memorandum to the Board and thought that the Board may conclude that the goals could be inconsistent with developing renewable energy due to the Town Vision Statement stating that "...Duck desires to remain a slow paced, coastal village, family oriented; wants to maintain the Town's residential nature and established development pattern..."

Chairman Britt and Member Yarbrough thought it meant maintaining nature, protecting and preserving the natural environment by not using traditional sources of energy. Member Fricker stated that he did not understand why Council suggested the Board research the issue. He felt the Board should find out what the public's opinion was.

Chairman Britt agreed and thought the Board needed to back up and get input from the public to see what they want. He stated that he saw the issue as two (2) fold – government property and Town property doing something unique and special. He stated that that could be the direction taken and then open it to residential and business communities to see if they wanted to do it too. He thought there was limited potential for residential properties.

Member Yarbrough felt the white paper approach would be critical to show the pros and cons as well as a starting point for public input.

Member Forlano noted that not all of the alternative energy sources will present the same type of problems as wind energy. He cautioned that the Board should not put blinders on with regard to wind power. Chairman Britt agreed and added that there weren't many towns that have a spot like the Corps of Engineers property for wind energy potential. Member Forlano thought it would be hard to put a wind turbine in the Currituck Sound as it would stir up a public outcry.

Member Yarbrough stated it was exciting to see the wind turbine at the Brewing Station in Kill Devil Hills. She stated that it made such a statement and changed her opinion of Kill Devil Hills and the vision of that community. She thought if Duck decided to encourage one for the Town, it would be quite a symbol. Council Liaison Wessel stated that the visioning was a bigger question as it should be addressed first with experts and an energy audit.

Member Forlano stated he liked the idea of a committee from all walks, such as the Town engineer, a Planning Board member and professionals to look at and develop it with a bit more expertise. Member Yarbrough agreed. Chairman Britt thought the Planning Board should be responsible for setting up meetings to see what type of public input they would receive and then set up a committee if one is needed.

Member Forlano asked how the Board could get a group together to talk about the issue. Chairman Britt thought there could be a public information workshop. Member Yarbrough thought it needed to be more exciting than just a discussion with the Planning Board. She suggested a letter to the editor of the local paper from one of the Town employees or a Council member outlining what the Board was considering and then soliciting public opinion at a forum on renewable energy. Council Liaison Wessel suggested that if there was a forum, to have North Carolina State Solar Center attend. Member Forlano felt the Council members needed to be involved in the forum. Chairman Britt agreed. Member Yarbrough stated that she liked the idea of a letter to the editor and maybe a press release.

Member Forlano thought the Planning Board's job was very far down the road and that the issue was not worth discussing at this time. Chairman Britt and Member Yarbrough agreed.

Director Garman thought that everyone on the Board seemed to share similar values with regard to renewable energy, but thought the question was how balanced did their approach need to be with regard to any impacts. He agreed with obtaining a lot of public input, especially with public utilities specifically addressed in the Land Use Plan with the goal to have utilities buried. Now the Town would be looking at something that would be very tall and above ground.

Member Fricker asked if Dare County had looked into the issue. He wondered what their position was and if anything was being discussed at the County level. Director Garman stated that he did not know of anything being done at the County level.

Chairman Britt thought the consensus of the Board was that something had to be set up to receive public information regarding renewable energy. Director Garman stated he would start making contact to set up an initial renewable energy forum. Council Liaison Wessel stated he would discuss the issue with Council along with a co-sponsorship. He stated that he would talk to Mayor Morrison as he may want to be personally involved.

Discussion of Zoning Regulations Pertaining to Public and Private Sidewalks and Walkways including Beach and Sound Accesses

Director Garman stated that the Board had briefly discussed the issue several months ago and most recently at their July meeting. Olin Finch brought the issue to the Board's attention again in July. He stated that there are many walkways and dune crossovers in Town that are constructed to the lot line and do not meet setbacks. The ordinance does not provide an exception to setback regulations for these structures. He stated that the Board wanted to come up with exception criteria for these structures. The Town Council suggested that the Board come up with a standard that would allow what's been happening to continue without making existing walkways nonconforming. He stated that he tried to come up with a draft ordinance for discussion purposes that would be designed to deal with community accesses as well as private properties and the Town boardwalk, to be proactive. He stated he was looking for feedback from the Board on the draft language.

Member Fricker noted that Paragraphs D, E and F referred to community and sound accesses and then private and municipally owned ones. He wondered if there needed to be an additional section for anything that was commercially related. Director Garman stated that Paragraph E would cover commercially related accesses.

Vice Chair Blakaitis asked if a walkway was considered wood or concrete. Director Garman stated it would be either. Vice Chair Blakaitis stated he would not consider gravel or sand as a walkway and would not want them regulated. Director Garman noted that these would not be considered "structures" by the ordinance and therefore would not be regulated. Director Garman also noted that the width requirement was included to keep walkways from becoming decks.

Vice Chair Blakaitis moved to recommend Council amend Zoning Regulation 156.051 to include the additions of Paragraph D, E and F as presented to the Planning Board.

Member Fricker seconded the motion.

Motion carried 5-0.

Consideration of Ordinance 08-004 – Correction to 156.128, Land Disturbing Activities regarding Fill Slope Requirements

Director Garman stated that Olin Finch had brought up the error in the ordinance at the Board's July meeting. He stated that the intent was to maintain at least a 3:1 slope or greater and the way the ordinance read, it was 3:1 or less. He stated that staff had corrected the problem with the new language.

Member Fricker moved to recommend approval of the amendment to Ordinance 08-004 as presented. Member Forlano seconded.

Motion carried 5-0.

APPROVAL OF MINUTES

Planning Board Meeting July 9, 2008

Chairman Britt directed the Board to review the minutes from the July 9, 2008 meeting.

Vice Chair Blakaitis moved to approve the minutes as presented. Member Forlano seconded the motion.

Motion carried 4-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Director Garman stated that the owner of 165B Buffell Head Road was looking to move their house westward due to beach erosion. He stated that there were previous discussions regarding erosion that had been occurring in this area. He stated that the owner was looking to obtain a special exception for parking and a height variance. Director Garman also noted that Bill Owen of Seaboard Surveying was looking at the corner lot at Duck Landing for development. He stated that these were some issues that may come before the Planning Board in the near future.

BOARD COMMENTS

Member Forlano asked what was going on with the truck at the tackle shop that has a sign on it. Director Garman stated that Sergeant Ackerman had indicated to him that the truck comes and goes and does not stay parked in the same spot overnight. Director Garman stated he would be taking a closer look at it again as well as the whole sign enforcement process.

Member Yarbrough stated she would like a copy of what gets sent out to the business owners regarding sign enforcement.

ADJOURNMENT

Chairman Britt moved to adjourn the meeting.

Motion carried 5-0.

The time was 8:14 p.m.

Approved: _____
 /s/ Jon Britt, Chairman