

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
September 14, 2011**

The Planning Board for the Town of Duck convened at the Duck Municipal Offices on Wednesday, September 14, 2011.

Present were: Vice-Chair Joe Blakaitis, John Fricker, Ron Forlano and Randy Gilbreath.

Absent: Chairman Jon Britt.

Also present were Director of Community Development Andy Garman; Council Liaison Chuck Burdick; and Permit Coordinator Sandy Cross.

Others Present: Ken and Shirley Vallade; Wendy Coulson-Murray of Sanderling Inn Resort; Dick McAuliffe of Turnpike Properties; Christopher Nason of Beacon Architecture; Andy Deel of Quible and Associates, Michael Strader of Quible and Associates, Warren Eadus of Quible and Associates, Derek Dail of Quible and Associates and Town Manager Christopher Layton.

Absent: None.

Vice Chair Blakaitis called to order the Regular Meeting of the Planning Board for September 14, 2011 at 6:29 p.m. He noted that Chairman Britt was not present.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Discussion/Consideration of CUP 11-03, a Conditional Use Permit Application Submitted by Fred and Shirley Vallade to Permit a Major Home Occupation as Defined in Town Code Section 156.136 (Art Gallery) at their Property at 102 Flight Drive in Duck, North Carolina

Director Garman stated that the Conditional Use Permit application was to allow a major home occupation at Fred and Shirley Vallade's residence at 102 Flight Drive. He stated that Mr. Vallade was an artist and wanted to utilize a small space in his home to use as an art studio/gallery. He added that Mr. Vallade would invite people into his residence via appointment in order to view the artwork and do business. He stated that Mr. Vallade would like to have an open studio once a year for one weekend. He clarified that the open studio once a year was not part of the Dare County Arts Council event, but was to be done either alone or in

cooperation with other artists. He further clarified that the parking requirement was for two spaces and not three as listed in the staff report, adding that Mr. Vallade would be required to have four parking spaces total. He noted that a parking deferral was not necessary and that if he were to sell his home, the home occupation would cease to exist (therefore the normal parking requirement would automatically be met). He stated that staff recommended approval of the Conditional Use Permit application.

Member Gilbreath moved to recommend approval of CUP 11-03. Member Fricker seconded.

Member Fricker amended the motion and moved to recommend approval of CUP 11-03 with findings in the staff report as amended. Member Gilbreath seconded.

Motion carried 4-0.

Discussion/Consideration of a Zoning Text Amendment Application Submitted by Quible and Associates, P.C., on behalf of SI Villas, LLC, Sanderling Spa, LLC and Turnpike Properties, Inc., to Amend Town Code Section 156.059 Pertaining to Group Development Projects

Director Garman stated that the Sanderling had submitted a Conditional Use Permit application to construct a pavilion on the west side of Duck Road in order to host weddings and special events. He stated that as staff went through the application for the Conditional Use Permit with the Sanderling and reviewed the Town's ordinances, it was realized that the application was not consistent with the requirements that all buildings in a group development be separated by at least 20 feet. This would require a text amendment in order to process the application as proposed. He stated that the Sanderling was proposing to install a sprinkler system in the building and staff felt that a good option would be to amend the Code to lessen the building separation requirement for group developments if fire suppression systems are installed.

Director Garman stated that since the Sanderling had various constraints within the property, they opted to pursue the text amendment to modify the ordinance rather than modify the building. He stated that staff felt the proposal was reasonable based on the fact that they were going to sprinkle the building. He stated that the issue was discussed with Building Inspector Cory Tate and Fire Chief Donna Black who both agreed that it was an acceptable modification to the ordinance. He went on to review the ordinance with the Board and audience. He added that staff was recommending approval of the text amendment and noted that it would also have to go before the Town Council.

Andy Deel of Quible and Associates was recognized to speak. Mr. Deel stated that sprinkler systems in the Fire Code impact what the minimum building separation could be and did allow for a reduction. He added that the language in the ordinance was crafted so that the Town Council may reduce the separation required between buildings to be ten feet instead of twenty when fire suppression systems are installed.

Member Forlano asked what the maximum occupancy would be for the building. Chris Nason of Beacon Architecture was recognized to speak. Mr. Nason stated that it would hold a few hundred people, but that the final count has not been done. Member Forlano asked if the

occupancy was based upon the square footage of the building. Director Garman stated that it was.

Member Fricker moved to recommend approval of the zoning text amendment as presented. Member Gilbreath seconded.

Motion carried 4-0.

Discussion/Consideration of CUP 11-02, a Conditional Use Permit Application submitted by Quible and Associates, P.C., on behalf of SI Villas, LLC, Sanderling Spa, LLC and Turnpike Properties, Inc., to Amend the Existing Conditional Use Permit for the Sanderling Resort and Spa, to Construct a Permanent 4,261 Square Foot Open-Air Pavilion

Director Garman stated that the Conditional Use Permit was an amendment to several previous Conditional Use Permits. He stated that the Sanderling wished to construct a 4,261 square foot pavilion to be located on the south side of the pool building at 1574 Duck Road. He added that they were also proposing to construct a 230 square foot storage shed as well as a deck for the pavilion. He stated that the pavilion would be an open air type and would have canvas sides with sprinklers for fire protection. He noted that the primary purpose would be for special events such as weddings and other gatherings.

Director Garman stated that staff evaluated the application for compliance with all of the standards of the ordinance and found it to be generally compliant with all of the provisions of the ordinance. He stated that with regard to the parking analysis, staff agreed that the number of spaces currently in place were sufficient considering the shared uses at the Sanderling property.

Director Garman stated that staff discussed the issue of lighting. He added that most of the patrons that attend the events have to cross Duck Road to get to the tents. He stated that the site is not very well lit and in some cases, it's difficult for drivers to see the crosswalk and the pedestrians crossing the road at night. He stated that staff was suggesting that the applicant look at some measures to improve the visibility or safety of the crosswalk. He thought the simplest solution would be some additional street lighting. He stated that staff recommended that the application be approved with one of the conditions being that the safety of the crosswalk be evaluated.

Member Fricker asked if staff evaluated the efficacy and adequacy of the lighting with past Conditional Use Permit applications. Director Garman stated that staff would under most situations, but in this case, the applicant is not proposing any additional lighting except for the building lighting. Member Fricker stated that when the staff report notes that there is a concern regarding pedestrians crossing Duck Road and the adequacy of the lighting of the crosswalk, he wondered whether staff or the Board had some obligation to step in rather than to leave it up to the applicant. Member Gilbreath pointed out that Duck Road was a state road and not a Town road. Director Garman stated that since the lighting would have to be within the right-of-way and not on the site itself, a lighting plan of this type is not a typical required component of the application.

Andy Deel stated that they were not asking the Town to keep the lighting issue open-ended. He added that Director Garman would typically review parking lot lighting, which has very specific standards. He stated that this was different as overall traffic and pedestrian control was the issue with regard to lighting. He stated that staff had requested that they contact NCDOT and ask them to evaluate what was presently there and provide recommendations. He noted that they contacted NCDOT and the traffic engineer was committed to be on site next week in order to provide their recommendations. He stated that he would bring the recommendations back to staff prior to the Town Council meeting. He stated that the proposed pavilion was not an intensification of use. Director Garman stated that the only concern he had was if NCDOT came back and said no change would be necessary even though the Town had expressed a concern. He hoped to have some minimal level of lighting addressed by NCDOT.

Dick McAuliffe of Turnpike Properties was recognized to speak. Mr. McAuliffe thought that because the Sanderling did not have any jurisdiction with regard to the NCDOT lighting issue, they would support whatever NCDOT recommended, but added that they would not be willing to do something if NCDOT did not recommend it. Vice Chair Blakaitis asked if there was any thought on a recommendation for the lighting issue. Dick McAuliffe reiterated that they would support whatever NCDOT recommended. Vice Chair Blakaitis stated that when the area of the Sanderling Inn is busy, he felt the speed limit should be reduced to 25mph. Mr. McAuliffe agreed and added that their primary concern was the safety of their guests.

Director Garman stated that he had spoken to NCDOT as well as the traffic engineer. He stated that he mentioned that even though the use at the Sanderling had been occurring for some time, it was a new facility that will require people to cross the road and that both the Fire and Police Department have told him that it's very dark in that area at night. He stated that the Fire and Police Department have suggested some sort of additional lighting to help improve the visibility in the area around the crosswalk only. Vice Chair Blakaitis stated that he would like the Town Council to have the benefit of whatever suggestions were made from the applicant and NCDOT.

Member Forlano asked if there were any accidents in the area of the Sanderling Inn since the wedding events started. Dick McAuliffe stated that there have not been any. He added that the number of functions would not be changing. Director Garman stated that if the NCDOT engineer suggests lighting at the crosswalk, it would be relatively easy to accomplish.

Member Fricker asked if Condition #3 should be modified in the draft Conditional Use Permit regarding the visibility and safety of the pedestrian crosswalk. Dick McAuliffe noted that off-duty Police officers were used for the events, using their flashing lights at the crosswalk. Director Garman stated that it was great that the officers were doing this service off-duty, but was not something that the Town required. Member Fricker stated that if the lighting issue was something that needed to be addressed, he thought there should be a clear condition in the Conditional Use Permit. He suggested the following language be added to Condition #3: "...the applicant will augment lighting at the crosswalk consistent with the recommendations of state and local experts..."

Member Gilbreath moved to recommend CUP 11-02 as amended with the findings presented by staff. Member Fricker seconded.

Motion carried 4-0.

APPROVAL OF MINUTES

Planning Board Meeting August 10, 2011

Vice Chair Blakaitis directed the Board to review the minutes from the August 10, 2011 meeting.

Member Gilbreath moved to approve the minutes as presented. Member Fricker seconded.

Motion carried 4-0.

OTHER BUSINESS

Discussion of Future Activities to Collect Stakeholder Input on Ordinances Pertaining to Eating Establishment Uses

Director Garman stated that the Board was anticipating a discussion regarding the ordinance and had agreed that they had come up with a draft ordinance that was acceptable prior to obtaining additional input. He stated that he was trying to get some direction as to what the Board wished to do. He reminded the Board that Chairman Britt had mentioned that he didn't want to do anything until after the season ended. He suggested a meeting in the month of October.

Vice Chair Blakaitis asked Director Garman if he had spoken to anyone about the issue yet. Director Garman stated that he had not distributed any information with regard to the ordinance. He stated that staff has a business contact list that they maintain and the Town has sent out a business newsletter in the past as well as online surveys in order to receive input. He stated that the simplest thing would be to send all of the businesses an email to invite them to the meeting.

Vice Chair Blakaitis asked if October would be a good month for the input session or if it should be done at the November meeting. Member Fricker thought the other question was what other items would be on the agendas for October and November. Director Garman thought the October meeting would be fine for the input session. Vice Chair Blakaitis suggested that contact be made with the businesses and if there was enough interest, have an input session at the October meeting.

Member Forlano noted that a lot of the businesses close for the season starting in November. He thought an input session in October would be better. Vice Chair Blakaitis agreed. Director Garman stated that he would send an email to the business contacts and advertise the meeting as well.

STAFF COMMENTS

None.

BOARD COMMENTS

None.

ADJOURNMENT

There being no further business to discuss, Vice Chair Blakaitis moved to adjourn the meeting. He also seconded. There was no vote.

The time was 7:29 p.m.

Approved: _____
Joe Blakaitis, Vice-Chairman