

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
February 8, 2012**

The Planning Board for the Town of Duck convened at the Duck Meeting Hall on Wednesday, February 8, 2012.

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

Absent: None.

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

Others Present: Scott Foster and Dan Lewis of Coastal Cravings, Pat Pettit, David Ryan of Creative Engineering Solutions, LLC and Ken Forlano of Duck Deli.

Absent: None.

Chairman Britt called to order the Regular Meeting of the Planning Board for February 8, 2012 at 6:32 p.m.

PUBLIC COMMENTS

None.

It was *consensus* of the Board to move New Business up on the agenda.

NEW BUSINESS

Discussion/Consideration of CUP 12-02 – Application by Scott Foster of Coastal Cravings to Consider a Conditional Use Permit Amendment for the Existing 40-seat Restaurant located at 1209 Duck Road

Director Garman stated that the Conditional Use Permit application was for an outdoor dining area at the restaurant at 1209 Duck Road. He stated that the CUP was being applied under the Town's new ordinance pertaining to eating establishments, which was adopted by the Town Council at their January 4, 2012 meeting. He stated that the applicants would like to establish a 384 square foot outdoor dining area currently where the two handicap parking spaces exist. He stated that staff reviewed the existing parking and determined that, even with the elimination of the handicapped parking, there would be enough parking remaining after the expansion. He noted that the applicant would be relocating the two handicap parking spaces directly across the drive aisle so they would be compliant with ADA requirements and the Building Code. He stated that three regular parking spaces would be eliminated to accommodate the handicap spaces. He went on to review the site plan with the Planning Board and audience.

Director Garman stated that staff believed there were sufficient parking spaces to approve the application and that it would be a relatively minor addition to the restaurant. He stated that the applicant would also be doing some interior modifications to the restaurant but would not be increasing the interior seating. He stated that the draft findings and conditions were included in the Board's packet if they wished to approve the recommendation. He noted that there were several conditions that were consistent with the eating establishment ordinance and reviewed them with the Board.

Member Fricker asked if there was an issue with the trash receptacle. Director Garman stated that it would carry forward with the final site plan approval. He noted that before the project is completely approved, staff would have to approve the final site plan which would need to show how trash would be handled on the site plan for the outdoor dining area. Member Fricker asked if the CUP had anything in it regarding prohibiting live music or entertainment. Director Garman stated that it did and that the language was taken directly from the ordinance. Member Fricker asked Director Garman if he was satisfied with the language. Director Garman stated that he was. Member Fricker suggested striking the word "live" from the condition.

Vice Chair Blakaitis made a motion to recommend approval of CUP 12-02 as presented. Member Fricker seconded.

Motion carried 5-0.

OLD BUSINESS

Discussion/Consideration of CUP 12-001 – Application by Chris Nason of Beacon Architecture + Design, PLLC, on behalf of Forlano Properties, LLC, Property Owner, to Consider a Conditional Use Permit for a new 44-seat Restaurant to be located at 1221 and 1223 Duck Road, the Site of the Existing Duck Deli

Member Forlano stated that before the CUP was considered, he wished to recuse himself from the meeting. It was *consensus* of the Board to recuse Mr. Forlano from the meeting.

Director Garman stated that the application was considered at the Board's January 11, 2012 meeting. He stated that it was an application to develop a new restaurant at the site of the existing Duck Deli restaurant and adjacent single family dwelling at 1221 and 1223 Duck Road. He pointed out that the residential property was rezoned in 2011. He stated that the applicant brought forward the Conditional Use Permit which was for the most part, in accordance with the sketch that was presented previously to the Town Council and to the Saltaire Homeowner's Association during the rezoning process.

Director Garman stated that the Board reviewed the site plan at their January 11, 2012 meeting and noted several items that were deficient and it was suggested that the applicant revise those items and bring it back to this meeting for another review. He went on to review the items with the Board and audience. He noted that staff believed that the revisions were consistent with the ordinance and would recommend approval of the CUP. He also noted that staff had prepared a

draft findings and conditions document for the Board to review if it was the Board's desire to recommend approval of the CUP.

Director Garman stated that the comments that staff received from some of the residents of the Saltaire subdivision dealt primarily with preservation of the open space area in the rear of the lot where the drainfield is and the driveway connection that is proposed between the eating establishment and the residential house (Saltaire) to the south. Persons commenting believe that this driveway connection will facilitate commercialization of the Saltaire property. Director Garman stated that staff believed the driveway connection was preferable to having the Saltaire establish a separate driveway onto Duck Road directly adjacent to the new restaurant driveway.

Member Fricker asked if Mr. Forlano would be willing to relocate or redirect the driveway. Director Garman stated that he had not spoken to Mr. Forlano about it. Member Fricker asked if Mr. Forlano could be forced to remove the connection and add a new, separate driveway. Director Garman stated that as part of the Conditional Use process for the site plan, the Board could compel the applicant to remove the joint access but the Board could not prohibit Mr. Forlano from installing a new driveway.

Pat Pettit of 128 Marlin Drive was recognized to speak. Ms. Pettit stated she had not seen any issues with regard to trash on the property. She stated that with regard to overflow parking, there has been an issue on many instances, but Ron Forlano has done a great job in dealing with the parking problem. She stated that the only thing she had ever seen on the septic field area was a tent with some tables and chairs.

Dave Ryan of Creative Engineering Solutions was recognized to speak. Mr. Ryan stated that with regard to the open space, it was not dissimilar in nature as to what has been happening at Aqua Restaurant with temporary tents. He noted that the rear of the property was currently heavily vegetated from the adjoining properties. He stated that there was no proposed use for the active and repair septic areas; however, there may be a continued use for the adjoining residential property to the south. He pointed out that it will be self-regulated due to the rezoning of the two properties, as it will require a permit. He stated that the applicant would be amenable to not allowing any permanent structure within a 50 foot buffer from the rear property line. Director Garman noted that any other structures would require an amendment to the Conditional Use Permit. Member Fricker thought the 50 foot buffer would be reasonable in order to preclude any permanent structure. Director Garman stated that he would revise the draft findings and conditions to include the buffer.

Pat Pettit thought the whole issue with the driveway was that originally there were two residential properties owned by the same family. She stated that now that one was rezoned commercial, there was a concern about tying a residential property to the commercial property. She wondered if the residential lot should be continued to be tied to the commercial one as there was another driveway to the residential lot. Member Fricker stated that staff's position was that it was not a good idea to have a driveway so close to Marlin Drive and that it would be better left alone. Vice Chair Blakaitis thought it did not serve the Town any purpose to have two driveways there and further thought the owner of the adjacent property would want access to his driveway.

Ken Forlano was recognized to speak. Mr. Forlano thought one of the concerns over the last 25 years had been the use of Duck Deli as a commercial entity. He stated that he has tried to bridge the gap to no avail. He stated that he fully understood why the residents of the Saltaire subdivision did not want the commercial entity, but it seemed to be after the fact since Duck Deli has been in the same place for so many years. He pointed out that he now has the opportunity to fix some of the problems and make it better for the community.

Member Fricker stated that it appeared that everything that was missing at the last meeting has been addressed to staff's satisfaction. Chairman Britt reviewed the bulleted items with the Board and the audience.

Member Fricker moved that the Planning Board recommend approval of CUP 12-001, consistent with the amended findings that staff had prepared. Member Gilbreath seconded.

Motion carried 4-0.

APPROVAL OF MINUTES

Planning Board Meeting January 11, 2012

Chairman Britt directed the Board to review the minutes from the January 11, 2012 meeting.

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

Motion carried 3-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Director Garman noted that the Council Retreat would be held on February 15th and 16th.

BOARD COMMENTS

None.

ADJOURNMENT

There being no further business to discuss, Chairman Britt adjourned the meeting. There was no second or vote.

The time was 7:44 p.m.

Approved: _____
/s/ Jon Britt, Chairman