

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
March 14, 2012**

The Planning Board for the Town of Duck convened at the Duck Meeting Hall on Wednesday, March 14, 2012.

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

Absent: Randy Gilbreath.

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

Others Present: Lisa and Danny Newbern of Dockside N Duck, Ninnette and Nathan Bearfield of Wee Winks Market, Michael Robinson, Michael Morway of Albemarle & Associates, Ltd, Timothy and Suzan Gillis, Robert Michelle Mulloy, Lynnette Sumner of Aqua Restaurant, Willo Kelly and Councilor Dave Wessel.

Absent: None.

Chairman Britt called to order the Regular Meeting of the Planning Board for March 14, 2012 at 6:33 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Discussion/Consideration of an Application by Michael J. Morway, P.E. of Albemarle & Associates Ltd., on behalf of Wee Winks, LLC, Property Owner, to Consider a Conditional Use Permit for a New Group Development to be Located at 1216 Duck Road

Director Garman stated that there were three properties involved – 1216 Duck Road; which was the site of the existing Wee Winks Market, 100 Duck Ridge Village Court and 101 Wampum Drive – that are the subject of the Conditional Use Permit request. He noted that this was an informal sketch plan review of the project. He added that staff had suggested that a sketch plan review of the project was suggested prior to submittal of a completed site plan due to the size and scale of the project. He stated that the informal review was designed to familiarize the Planning Board with the project, review some of the major issues and let everyone make

comments before the designers go back and finalize the plan, at which point it would come back to the Planning Board for a more formal review and recommendation to Town Council.

Director Garman stated that the Conditional Use Permit application was for a redevelopment of the site, to include the two properties behind it and would involve the construction of two new retail buildings – Wee Winks Market and the ABC Store. He noted that Mike Morway of Albemarle Associates and Ninnette Bearfield who owned Wee Winks Market were present for the meeting.

Mike Morway was recognized to speak. Mr. Morway stated that he was approached by Ninnette Bearfield and Jerry Davis regarding completing a redevelopment project. He stated that the three lots were owned by Wee Winks, LLC. He noted that the existing parking at Wee Winks Market was not permissible by today's standards and that the orientation made it as such that a vehicle could not maneuver in or out of the parking area without being on the multi-use path and Duck Road. He stated that there are two large dunes behind the existing structure. He stated that the new Wee Winks building would be constructed to be approximately 4,100 square feet and that the ABC store would be approximately 2,000 square feet. He stated that they are seeking approval for the project under the Village Commercial Development Option. He noted that the site, in most ways, conforms with the Village Commercial district regulations. The primary need for the Village Commercial Development option is because there would be more than one structure.

Mike Morway stated that the buildings have been located to deal with the grade transitions. He stated that the sketch plan was very well thought out but did not have the high level of detail for a full review. He went on to review the sketch plan with the Board and audience.

Member Forlano asked if both entrances would have two-way traffic. Mike Morway stated that they would and that the applicant would like to keep it that way. Member Forlano asked if it was cost prohibitive to put in permeable concrete. Mr. Morway stated that the applicant had discussed using it but it was too expensive. He added that it was also maintenance intensive and the installation needed to be done correctly for it to work. He noted that permeable concrete was not currently planned for the site. Member Forlano asked Mr. Morway if he felt confident with the retention basins. Mike Morway stated that the basins were designed to meet the State requirements.

Member Fricker stated that he was not clear about the type of pavement that would be used. He asked if the parking areas would be concrete. Mike Morway stated that it would most likely be asphalt, along with curb and gutter.

Director Garman stated that one issue with the State stormwater permit was that the applicant is receiving some credit from the State as a result of the existing development being grandfathered. He noted that the state would not require them to handle stormwater for all of the impervious surfaces on the site. The state would only require that they collect stormwater for the new impervious areas. Mike Morway noted that the rear of the site would be more accommodating for permeable pavement.

Vice Chair Blakaitis asked how the site drainage could go from a few feet to ten feet and have the site drain well. Mike Robinson was recognized to speak. Mr. Robinson stated that the driveway would have to be pitched in order for it to work and based upon some quick calculations, the basins were undersized. He thought there would need to be some crowning in the parking lot in order to put in some catch basins around the perimeter.

Vice Chair Blakaitis stated that he was not sure he was comfortable with the two-way driveway. He thought there should be something done that was similar to the Duck Deli Restaurant. Chairman Britt stated that he liked the two-way driveway. Member Fricker disagreed with Chairman Britt. He stated that to keep the driveway two-way, it would better serve the people on Wampum Drive. He felt it should be one way in and one way out. Vice Chair Blakaitis asked if the driveway could be two-way in the back and one-way off Duck Road. Member Fricker suggested that the access be one-way.

Chairman Britt stated that he would like to see more consideration for dealing with the runoff and keeping the driveway as two-way. Vice Chair Blakaitis stated that he didn't understand why the driveway couldn't be two-way off Wampum Drive and then be one-way off Duck Road.

Vice Chair Blakaitis asked if Wee Winks Market was planning to expand their services. Nathan Bearfield was recognized to speak. Mr. Bearfield stated that they would like to be a full service grocery store for the Town. Vice Chair Blakaitis asked if there were would be any areas for people to eat in. Mr. Bearfield stated that they may have some deli items and may have places for people to sit outside, but it would not be considered a restaurant. Mike Morway noted that he accounted for a level of food service in the wastewater plan.

Member Fricker clarified that there would be bulkheading completed at the back of the property. Mike Robinson stated that right now there was minimal bulkheading, but was something that should be discussed. He added that currently it was a 3:1 slope, which could wipe out the existing vegetation. Director Garman noted that there were a lot of large trees at the site and a lot of grading that would have to occur. He added that he received some comments about the grading with regard to the adjacent properties. He stated that they would have to be careful regarding the grading plan to make sure the adjacent properties were not impacted.

Chairman Britt thought the main concern of the Board was dealing with the stormwater runoff from the parking lot. He asked the Board if they were leaning towards encouraging some type of alternative parking surfaces.

Member Fricker stated that his concern was that the applicant was facing two topographical problems – they wanted to back up the buildings in order to reconfigure the parking and in doing so, a funnel effect will be created. He added that with the funnel effect with the two buildings, it would add to the stormwater from Wampum Drive. Mike Morway stated that other items would need to be added for the stormwater, such as trench drains and drop inlets.

Member Fricker asked if the driveway behind Baldies Restaurant could be lowered. Mike Robinson thought it was feasible. Member Fricker thought it would significantly reduce the runoff. Mr. Robinson stated that he would have to give it some thought but his initial thoughts would be that it wouldn't make much difference.

Chairman Britt stated the he would like the applicant to save as many trees as possible to keep the back drop of the vegetation behind the buildings. Director Garman suggested that Albemarle & Associates complete a survey to locate all of the trees and approximate some of the larger trees and show them on the site plan so staff can see what can be saved. He stated that staff would really need to know what's there before a recommendation can be made.

Chairman Britt thought the new site plan was much better for the Village Commercial area, but added that he wanted as much vegetation maintained as possible.

Member Fricker thought that the street facing elevation of the building needed some kind of architectural feature, such as windows or shutters. Vice Chair Blakaitis agreed. He asked why there weren't any windows in the front of the building. Nathan Bearfield stated that the windows would limit the amount of shelf space that could be installed.

Director Garman stated that the applicant had commercial design features that would need to be addressed. He added that things could be done architecturally to make it look more appealing. He stated that the applicant would have to complete a landscaping plan, a lighting plan and show the proposed signage. Mike Morway noted that it would be doubtful that the applicant would be back by the April meeting with the suggested changes, but thought it could happen.

Robert Mulloy of 112 Wampum Drive was recognized to speak. Mr. Mulloy stated that traffic was a concern for the residents on Wampum Drive. He suggested that the exit be relocated onto Duck Ridge Village Court since there were only five homes on that street. He asked what steps the homeowners on Wampum Drive would need to know about if the construction commenced in the fall. Chairman Britt explained that the applicant would come back before the Planning Board for a recommendation, most likely in the May 2012 timeframe and the Board may then make a recommendation to the Council for their June 2012 meeting. Vice Chair Blakaitis noted that the Council would also hold a public hearing on the application. Director Garman stated that if the Planning Board recommends approval, then it would go before the Town Council for a public hearing, which would be held on the first Wednesday in June at 7:00 p.m. He added that notifications would be sent out to the adjacent property owners and noted that, for the public hearing, it was more beneficial to make comments in person instead of sending them in writing.

Timothy Gillis of 117 Duck Ridge Village Court was recognized to speak. Mr. Gillis wondered why there needed to be two buildings. He thought an efficient use of space would be to reduce the total footprint. He noted that cutting off the top of the dune will increase light pollution from the commercial properties into their neighborhood. Vice Chair Blakaitis noted that the Town had a lighting ordinance in effect and that Director Garman would be reviewing that with the applicant.

Suzan Gillis of 117 Duck Ridge Village Court was recognized to speak. Mrs. Gillis asked if the delivery trucks would be backing up to the loading dock and causing noise with the beeping. She noted that when the trash dumpsters are being serviced, it's very loud. Director Garman stated that the Town was trying to make the applicant aware of keeping a buffer in the rear of the property, not only for the loading zone, but also for the dumpsters. Mrs. Gillis stated that she was concerned about the parking adjacent to Duck Road.

Member Forlano asked what the reasoning was for constructing two buildings on the site. Director Garman stated that the Town encourages group developments with smaller buildings instead of larger buildings or a strip-style development.

The Planning Board confirmed with the applicant that they had received sufficient guidance to move forward to the next step. The applicant stated that they would work with staff and the Town Engineer to incorporate the Planning Board and staff concerns to bring the site plan back for a future meeting.

Discussion of Regulations Pertaining to Special Events and Itinerant Merchants/Vendors

Director Garman stated that there have been a lot of questions from individuals who wish to set up temporary businesses in Town, i.e., food truck or cart type businesses, and the existing regulations allow them under certain circumstances. He stated that staff had suggested to the Town Council that the Planning Board review regulations for temporary businesses with input from the business community. He stated that the question was whether the Town wanted to see a lot of mobile transient type businesses.

Chairman Britt asked what the tone was at the Council Retreat regarding the issue. Vice Chair Blakaitis stated that there was no real tone, only that Council wanted the businesses to be included in the discussions.

Director Garman stated that the Town Council has also asked the Planning Board to review regulations for commercial special events. He stated that staff has worked with the businesses for a few years now using a voluntary procedure but that no formal procedure exists. He explained that if there was a commercial special event, the business would submit a form similar to the wedding registration form and staff usually approves it. He noted that the Town has had a lot of cooperation from the businesses, but if a business does not cooperate, Town staff had no way to enforce or require the business to do something. He stated that he completed some research and did not think the process would be much different than what the Town has now but he would like to involve a timeframe for review and approval as well as some general standards governing what can occur. He stated that he would like to look at this in coordination with the itinerant merchants ordinance review.

Director Garman stated that Lynette Sumner of Aqua Restaurant had posed the question to him regarding whether they could have an ongoing event at the restaurant for a farmer's market on a weekly basis. He added that she would have various people selling items on their lawn every Monday morning. He stated that the question was whether she could do that as she would be bringing itinerant merchants from out of town once a week. He wondered if it would be considered a special event or an additional use of the property.

Chairman Britt thought all of the businesses should be included in the discussion as it was a complicated issue. He added that he would like to hear the business community's perspective. Director Garman stated that he could put together examples of the different types of special events and send out an email framing the issues and what the Town was looking to achieve.

Member Fricker asked if the Board had considered a farmer's market several years ago. Director Garman stated that it was a Town sponsored one. Member Fricker clarified that it never came to fruition because there was petition against it. Director Garman stated he was correct.

Lynette Sumner of Aqua Restaurant was recognized to speak. Ms. Sumner stated that since 2004, farmer's markets have grown over 300% and added that they bring communities together. She stated that they were a way for people to come together and did not take away from businesses.

Chairman Britt stated that he would prefer to have a discussion regarding the issue with more of the businesses in Duck. Director Garman stated that he would expect an input session at the Board's April 11, 2012 meeting.

Nathan Bearfield stated that the general thought of businesses were if the owner spends the money for a building and the expense of running it, why should someone that does not pay anything to set up a business in Duck be allowed to do so.

Director Garman stated that the current ordinance allows peddlers and itinerant merchants to set up as long as there is enough parking and permission from the property owner. He stated that it is a difficult to obtain approval primarily because of the lack of parking. He also stated that staff receives a lot of calls about these merchants. He stated that he wanted to be able to provide an answer and explain why they can or cannot be allowed to operate in Duck.

Chairman Britt noted that the issue would be discussed at length at the Board's April 11, 2012 meeting.

Discussion of Modifications to the Flood Damage Prevention Ordinance and Building Height Regulations to Provide Consistency with the 2012 North Carolina Residential Building Code

Director Garman stated that Building Inspector Cory Tate had given an overview at the Town Council's March meeting of the building code changes that went into effect as of March 1, 2012. This included a rather significant change to the Town's floodplain regulations requiring one foot of freeboard for new or substantially improved structures. He stated that the flood damage prevention ordinance was under the purview of the Planning Board as it was part of the Land Use regulations. He stated that the Code changes now include a freeboard requirement of one foot in flood zones throughout Town. He went on to review the changes with the Board and the audience, adding that staff wanted to incorporate the freeboard into the flood damage prevention ordinance. As well, staff has suggested amending the building height regulations to account for the freeboard requirement so that the height of construction is not penalized for the new rules. He suggested bringing back ordinance revisions that the Board could go over in detail at their April meeting.

Willo Kelly was recognized to speak. Ms. Kelly stated that members of the Building Code Council were in support of fighting the modification and having it removed. She stated that with regard to the freeboard, the CRS rating would improve so a homeowner's insurance cost would decrease, but not significantly.

Director Garman stated that the freeboard must be enforced under the Building Code and the change to the flood ordinance would be needed for CRS consistency. He added that the height change would need to be addressed so the Town would not penalize anyone.

APPROVAL OF MINUTES

Planning Board Meeting February 8, 2012

Chairman Britt directed the Board to review the minutes from the February 8, 2012 meeting.

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

Motion carried 4-0.

OTHER BUSINESS

None.

STAFF COMMENTS

None.

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 8:35 p.m.

Approved: _____
/s/ Jon Britt, Chairman