

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

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

Present were: 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, Permit Coordinator Sandy Cross and Administrative Assistant Christie Moseman.

Others Present: Michael Strader of Quible & Associates, Chris Nason of Quible & Associates, Wendy Murray of the Sanderling Inn, Dick McAuliffe of the Sanderling Inn, Simon Hallgarten of Northview Hotel Group, LLC, Dan Boda of Northview Hotel Group, LLC, Jeff Malarney of Quible & Associates, Brian Rubino of Quible & Associates, Doug Twiddy, Sharon Twiddy, Ross Twiddy, Clark Twiddy, Donna Krieger, Marc Murray, Councilor Jon Britt, and Tim McKeithan.

Absent: None.

Vice Chair Blakaitis called to order the Regular Meeting of the Planning Board for August 8, 2012 at 6:33 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

Discussion/Consideration of a Zoning Text Amendment Application submitted by Quible and Associates, P.C., on behalf of TFP, LLC, to Amend Town Code Sections 156.002 and 156.036(c) to add Real Estate Property Management/Maintenance Office as a Conditional Use Permitted in the Village Commercial Zoning District

Director Garman stated that the Board had a letter from Jeff Malarney in their packets, requesting that the item come back before the Planning Board. He stated that Mr. Malarney had spoken to Mayor Kingston and Town Manager Layton and rather than have the application go forward to Council with the recommendation of denial, it was suggested that they come back to the Planning Board and elaborate more on the application, so there would be further discussion on the subject before sending it to Council. He stated that the application changed slightly in that they struck the section regarding outdoor storage and materials as it was no longer planned for this use. He stated that they prepared a presentation for the Board. He noted that Doug Twiddy,

Sharon Twiddy, Jeff Malarney, Ross Twiddy, Clark Twiddy and representatives from Quible & Associates were all present.

Jeff Malarney was recognized to speak. Mr. Malarney stated that he was at the meeting to represent the Twiddy family as well as to answer questions. He went on to introduce the Twiddy family to the Board. He then gave a short presentation on the proposed plan to the Board and audience.

Sharon Twiddy was recognized to speak. Ms. Twiddy stated that she was present in order to give the Board perspective on the company. She stated that they have deep roots in the community and that her husband has worked for 35 years to earn a good reputation. She stated that they have a building in Corolla that is used as a service center and hoped that they would be able to do the same in Duck.

Director Garman noted that the Board had a copy of the previous month's staff report with staff's position on the project. He added that the main purpose was to ask additional questions of the applicant. He pointed out that some of the representatives were present that were not at the last meeting.

Doug Twiddy was recognized to speak. Mr. Twiddy stated that the problems existed in the rental homes and not the office building. He stated that the building would be used for operations and quick response to issues in the rental homes. He added that he hoped the Board would reconsider their position on the project.

Vice Chair Blakaitis asked what the use would be for the second floor. Jeff Malarney stated that it would be entirely devoted to office space.

Member Fricker asked if the people occupying the space were individuals that were communicating with others outside of the building and dispatching maintenance technicians to the homes. Jeff Malarney stated that he was correct. Member Fricker asked if the maintenance technicians would need to frequently come to the space. Mr. Malarney stated that they would from time to time, but as a business operator, the more they are kept out in the field, the better it was for their guests. Member Fricker asked where the administrative support function was located. Mr. Malarney stated that they were handled in Duck, Corolla and Kitty Hawk.

Member Fricker asked if the maintenance technicians would be coming back to the Duck office at the end of the day. Clark Twiddy was recognized to speak. Mr. Twiddy stated that they generally would not.

Member Forlano asked if there were three locations that were dispatching the service technicians, why there would be a need for another separate location. Clark Twiddy stated that they liked to geographically focus their resources in order to have a quicker response. Member Forlano clarified that they were looking to consolidate their offices into one office. Mr. Twiddy stated that he was correct.

Member Gilbreath clarified that they wanted to move some of their resources from Corolla to Duck in order to service Duck in a more efficient manner. Clark Twiddy stated that they had no intention of moving anything from Corolla.

Vice Chair Blakaitis asked how many people would be at the facility. Jeff Malarney stated that there would be approximately 15 employees. Vice Chair Blakaitis asked if part of the employees would be coming from the Corolla or Kitty Hawk offices. Clark Twiddy stated that they would rotate as some would stay in the other offices. He added that most of the employees would be the ones that currently work in the existing Duck office. Vice Chair Blakaitis asked if new employees would be hired for the Duck office. Mr. Twiddy stated that they were not anticipating hiring new employees.

Member Fricker noted that Section 156.103 of the Town Code talked about providing limited commercial areas to serve existing and developing residential neighborhoods in the Town. He further noted that the intent of the district was to provide the goods and services needed by permanent and seasonal visitors in concentrated locations. He added that elsewhere; the term “general public” was used. He wondered whether the proposed use of the building within the Village Commercial District was designed to be providing goods and services to the general public. He asked that the issue be addressed. Director Garman stated that the text amendment was chosen because the applicant had two aspects of this particular use that did not fit into the Town’s current definition of office – the storage aspect and the repair aspect. He thought if the repair and storage area were eliminated from the use, the project would meet the definition of office and the text amendment discussion would not be needed as it would come to the Board as a development plan. He added that because it has the repair and storage, staff asked the applicant to apply for a text amendment to create a different use that would allow the ability to have those two types of uses in a very limited fashion. He thought the applicant would argue that it was designed to meet the definition of Village Commercial as far as providing goods and services needed by seasonal visitors as they were providing a service to the cottages that they rent.

Member Fricker thought the situation could be viewed two ways – (1) that Twiddy would not be offering goods and services to the general public, but only to their clients that rent property through them and, (2) that they were in a different situation than a restaurateur would be in, in that they have limited rooms and/or seating and are open to the general public but not everyone in Town would be able to eat or sleep in their facility. Jeff Malarney thought that Twiddy was offering goods and services to the general public.

Member Forlano stated that he was having a hard time with the application. He stated that he had completed a lot of research with regard to the land use plan that the Town came up with. He stated that while looking through it, he realized that the Town had less than 6% of the land and properties in Duck designated as commercial. He stated that he was going to be stingy with regard to letting any property in the limited space to be changed from commercial to quasi-commercial at this time. He added that he has known Doug Twiddy for over 28 years and knew he was a very upstanding citizen of Duck and was one that managed very magnificent properties. He stated that he did not have a problem with the architecture of the building, but had a problem in that he was looking at it to be a value to the Town. Jeff Malarney stated that part of the operation was marketing to the public, whether they rent or purchase the property. Member

Forlano stated that he was still having a problem with the application. He felt that the facility did not necessarily belong in a Commercial or Village Commercial District, but in a Light Industrial District.

Vice Chair Blakaitis stated that the reason the application was denied from the previous meeting was that the actual use was inconsistent with the other uses in the Village Commercial District. He felt that it needed to be addressed and asked if it was really inconsistent with other uses in the Village Commercial District. He noted that it was excluded from Duck Road. He stated that the Town's intention was that a use such as this would not be allowed adjacent to Duck Road. He stated that the question was whether the use was inconsistent with other uses in the Village Commercial District.

Director Garman stated that there were two types of uses in the Code – the permitted use, which was allowed, where the Village Commercial Development option was not required and the applicant could come before Town staff and have a site plan approved for a permitted use. He noted that a regular office was a permitted use. The second was the conditional use, which always required Planning Board and Town Council approval. He explained that from a planning standpoint, a conditional use was something that could fit into a district if certain conditions were attached to it to make sure that it was compatible, which was how this use is being proposed. He added that staff felt that the office provided a service to the general public, however, the reason staff suggested that the building not be located on Duck Road was because there were a small number of properties in the Village Commercial District that weren't on Duck Road and staff wanted to reserve the existing properties on Duck Road to the retail and restaurants that would service the general public.

Doug Twiddy understood the issues, but noted that he has had guests pay for their stay, expecting a lot when they come to visit. He added that Dare County had 10,000 visitors in the community over the past weekend and the people that rent demand support. He stated that his business was not a fast food business, but one that would support the people that come to the Outer Banks.

Member Fricker asked if the existing Twiddy building was a permitted use or a conditional use permit. Director Garman stated that the current building was an office and was a permitted use. Member Fricker believed that the activities and function that the applicant wished to have was necessary to their business and he would be in favor of recommending approval on the basis that they were operating in the location by providing goods and services to the general public.

Member Forlano stated that he could not find any place in the ordinance or land use plan where a non-retail business was allowed. He added that it did speak to service-related businesses, so one could say it was a service-related business. He stated that he still felt stingy about allowing any non-commercial uses in the Village Commercial District. He questioned whether it was the highest and best use for the property. Clark Twiddy stated that he wasn't aware of any other commercial property off of Duck Road. He thought this location would protect Duck in that it would keep everything to the visitors on Duck Road intact, but still allowed for an administrative service area.

Member Gilbreath moved that the Board accept the proposal the way the applicants revised it. Member Fricker seconded.

Vice Chair Blakaitis asked Director Garman to review the conditions that were attached to the amendment. Director Garman stated that the following conditions would be attached:

- (1) The site location cannot be adjacent to NC 12.
- (2) The operation of the facility shall be limited to normal business hours – 8am to 6pm, Monday – Friday and 12pm to 6pm, Saturday and Sunday.
- (3) Buildings and site shall be designed and constructed in strict accordance with the Town of Duck Commercial Development design standards.
- (4) Building shall not exceed 5,000 square feet of gross floor area, excluding decks, porches and similar non-heated space.
- (5) The site shall incorporate a pedestrian friendly design that limits parking between commercial buildings and adjacent rights-of-way.
- (6) Bands and step-downs are allowed for delivery of items, however, tractor trailers are not allowed.
- (7) All repair work and maintenance activities other than normal maintenance to the building and grounds shall occur inside the principal structure.
- (8) Free-standing signage shall be discouraged in settings where not practical and necessary to the nature of the business.

Director Garman believed that the language did not include a condition regarding buffering of adjacent residential properties. He thought it was something that should be discussed. Member Fricker asked if there had been any discussion between Director Garman and the applicant regarding the buffering. Director Garman stated that it was something that he had discussed with the applicant and it was agreed upon. He thought the draft that was submitted was one that did not include that condition. Member Fricker asked if the motion should be amended. Director Garman thought that the language basically stated that there would be a 20 foot wide vegetative buffer wherever the use abuts an adjacent residential district. Vice Chair Blakaitis thought it should be part of the conditions.

Member Fricker amended the motion to recommend approval with the conditions that were cited by staff at this meeting to include the vegetative buffer between the commercial building and the residential properties. Member Gilbreath seconded.

Jeff Malarney noted that Director Garman had stated that the weekend hours were 12pm to 6pm in the conditions. He asked that since this was a seasonal business, the Planning Board would consider modifying the weekend hours. Member Fricker thought that decision should be left to

the Town Council. Council Liaison Burdick thought it was acceptable for the Board to decide on it.

Vice Chair Blakaitis asked the Board if they wished to discuss it. Director Garman stated that the letter in the Board's packets had a letter that provided revised language, deleting the outdoor storage condition, but thought it was drafted from an older version and the buffer condition was in the newer version, while the hours of operation were not. He went on to review the newest version with the Board and the audience, noting that the hours of operation were not listed. Vice Chair Blakaitis pointed out that the hours of operation were in the draft in front of the Board. He asked if it should be deleted from the draft. Director Garman thought the motion could reference the draft ordinance from the July meeting that deleted the condition on outdoor storage and materials.

Vice Chair Blakaitis asked again what should be done with regard to the hours of operation. Director Garman stated that the hours of operation were in an older ordinance that was never presented. Member Fricker asked if staff had a position on it. Director Garman stated that he and the applicant discussed it and didn't feel it was necessary. Vice Chair Blakaitis noted that the motion stood with regard to deleting the outdoor storage.

Amended motion carried 3-1 with Member Forlano dissenting.

NEW BUSINESS

Discussion/Consideration of CUP 12-06, an Application by Quible and Associates, P.C., on behalf of FMC/NV Sanderling SPE, LLC, to amend the Existing Conditional Use Permit for the Sanderling Resort and Spa, located at 1461 Duck Road

Director Garman stated that the Board reviewed a zoning text amendment at their last meeting that was submitted by FMC/NV Sanderling SPE, to adjust the parking standards for hotels. He stated that the Town Council reviewed it at their August 1, 2012 meeting and approved the ordinance as the Board had recommended. He stated that the applicant was now coming forward with a site plan to convert the office spaces to hotel rooms as well as a plan to provide some upgrades to the property. He noted that the applicants were present along with Mike Strader and Brian Rubino from Quible and Associates, who were representing the applicant.

Director Garman stated that the project was a relatively large one, but with a lot of small components. He stated that the applicant has some adjustments to make to the site plan before it goes any further to rectify some of the lot coverage calculations. He added that the parking calculation was relatively accurate the way it was provided, however, staff made a comment to the parking calculation with respect to the outdoor dining area that would be added to the Sanderling Lifesaving Station Restaurant. He went on to review the site plan with the Board and audience. He stated that staff reviewed the entire site plan and felt that it was consistent with all Town regulations, recommending approval of the site plan with the condition that the items in the staff report were addressed.

Vice Chair Blakaitis clarified that the seats for the restaurant were changing with respect to the parking plan to reflect the total number of seats. He asked if it would impact the plan. Director

Garman stated that the applicant addressed it on the site plan, adding that they reduced the number of seats in the restaurant to account for what would happen outside.

Member Fricker clarified that if a motion were to be made to recommend approval of the site plan, the conditions that would apply would be listed on page 5 of the staff report plus the three additional conditions listed on page 4. Director Garman stated he was correct.

Member Fricker moved that the Planning Board recommend approval of the application with the five conditions set forth on Page 5 of the staff report, plus the four additional conditions on Page 3 and 4 of the staff report. Member Gilbreath seconded.

Motion carried 4-0.

APPROVAL OF MINUTES

Planning Board Meeting July 11, 2012

Vice Chair Blakaitis directed the Board to review the minutes from the July 11, 2012 meeting.

Member Fricker had corrections to Pages 10 and 11 of the minutes.

Member Gilbreath moved to approve the minutes as amended. Member Forlano seconded.

Motion carried 4-0.

OTHER BUSINESS

None.

STAFF COMMENTS

None.

BOARD COMMENTS

None.

ADJOURNMENT

There being no further business to discuss, Vice Chair Blakaitis adjourned the meeting. There was no second or vote.

The time was 7:48 p.m.

Approved: _____
/s/ Joe Blakaitis, Vice-Chairman