

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
June 11, 2014**

The Planning Board for the Town of Duck convened at the Duck Meeting Hall on Wednesday, June 11, 2014.

Present were: Chair Joe Blakaitis, Vice Chair John Fricker, Ron Forlano, Tim McKeithan and Marc Murray.

Absent: None.

Also present were: Director of Community Development Andy Garman, Deputy Fire Chief Bill Walker and Permit Coordinator Sandy Cross.

Others Present: Michael Strader of Quible and Associates, Chris Nason of Beacon Architecture, Dick McAuliffe and John Chenowith of Sanderling SPE, LLC.

Absent: Council Liaison Chuck Burdick.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for June 11, 2014 at 6:37 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

None.

NEW BUSINESS

Discussion/Consideration of CUP 14-003, an Application by Michael Strader, Jr. P.E. of Quible & Associates, P.C. on behalf of FMC/NV Sanderling SPE, LLC, for a Conditional Use Permit Amendment to Allow the Addition of 24 Guest Rooms at the Sanderling Resort and Spa Located at 1461 Duck Road

Director Garman stated that this was an application by FMC/NV Sanderling SPE to add guest rooms to the Sanderling Resort and Spa property. He stated that the applicant was proposing to add 24 guest rooms total to bring the property up to 120 guest rooms. He explained that the project involved adding 18 guest rooms to the north inn building and would be accomplished by adding a third floor to the north end building, which was currently two floors. He reminded the Board that the applicant had applied for a text amendment earlier in the year to increase the height from 35 feet to 45 feet for buildings in that district, but the application was denied. He

added that this project involved adding a floor within the current 35 foot height regulations and would be measured from grade at the center of the structure.

Director Garman stated that the proposal included adding a third floor within 35 feet. He added that the building had three cupolas and explained that there was a provision in the Town's ordinance that allows a cupola to exceed the 35 foot height limitation by up to five feet, as long as it was no more than 64 square feet in plan view. He stated that the three cupolas met the requirement. He noted that the cupolas would be the only items above the 35 foot height limit on the building.

Director Garman stated that the footprint improvements on the site plan were limited in nature. He stated that there was a new elevator and sprinkler room on the southwest corner of the building. He stated that on the eastern side of the building was a new fire rated stairway as well as porch architectural features that were added to the building. He stated that there were some additional parking spaces shown on the site plan – 24 parking spaces have been added as the guest rooms require one parking space per room. He noted that they were scattered around the property and were put wherever the applicant found room to add them. He stated that the applicant met the ordinance requirement for parking spaces. He stated that staff reviewed various components of the Town's ordinance and found all the features shown to be consistent with the ordinance requirements, including CAMA, lot coverage, height, setbacks, building architecture and landscaping.

Director Garman stated that the applicant prepared a color rendering of the project and went on to show the Board and audience the rendering along with a 3-D model that was built. He stated that the project was a retrofit to the north end building. He added that staff looked at it from a life safety standpoint and had several meetings on-site. He stated that the applicant added full sprinkler systems to the building and will be adding additional stand pipes to the building to improve fire service and fire flow to various portions of the structure as well as a fire-rated stairway. He added that the elevator was added, which the building currently did not have, to improve ADA access. He stated that staff believed that the project met the requirements of the Town's ordinance and would recommend approval.

Chair Blakaitis asked the applicant if they had a presentation to make.

Dick McAuliffe was recognized to speak. Mr. McAuliffe stated that they came forward looking for a text amendment for a height variance previously. He stated that they were now working within the confines of the 35 foot height limitation and tried to retrofit everything into what the statute was. He added that they addressed parking, wastewater and tried to come up with the best possible plan that they could.

Kay Gillis of 124 Martin Lane was recognized to speak. Ms. Gillis asked if the applicant was going to pave other parking spaces or changing where the lines were located. Dick McAuliffe stated that they were not changing the lines but went through and had the civil engineering team put together a series of areas that had opportunities for parking spaces. Ms. Gillis asked if other spots would be paved. Director Garman stated that they would be paving some new spaces on the west side of the road, adding that they were proposing new spaces as opposed to restriping. Ms. Gillis pointed out that they presently did not have enough parking spaces for the existing

rooms and often ask if their guests could park at the swim and racquet club as well as parking at the end of Station Bay Drive. Dick McAuliffe stated that the only time they have requested parking at the swimming and racquet club was one time a year in April when they hold their wedding expo, adding that it was used for overflow parking. He noted that they always received permission from the board as far as parking at the end of the cul-de-sac. Ms. Gillis noted that delivery trucks parked on the cul-de-sac. Mr. McAuliffe disagreed and stated that deliveries were accepted in the loading dock area.

Ron Carter of 111 Royal Tern Lane was recognized to speak. Mr. Carter clarified that staff evaluated the parking. Director Garman stated that staff and the Town engineer evaluated the parking and drive aisle and both approved it. Mr. Carter asked how special events were handled. Director Garman stated that for the wedding expo, the applicant was required to obtain a special events permit from the Town. He added that they would have to demonstrate that they have coordinated with the Sanderling Property Owners Association and other entities to make sure they have gained approval for using the parking as well as addressing noise and trash. He noted that it did not apply to normal events such as a wedding. Mr. Carter asked if the ordinance allowed for space for delivery vehicles. Director Garman stated that it did.

Theresa Cullen of 122 Martin Lane was recognized to speak. Ms. Cullen thought that Dick McAuliffe thought only surfers used the cul-de-sac, but noted that when there was an event that required a set-up such as a wedding, the vendors used the cul-de-sac. She asked if the vendors were staggered. Dick McAuliffe stated that the vendors were not staggered because they have stops they make many times during the day all through the Outer Banks. Ms. Cullen stated that she was objecting to the smaller vans that deliver for weddings that use the cul-de-sac. Chair Blakaitis stated that the Board appreciated Ms. Cullen's concerns. He stated that the issue was discussed in detail at the last submission and the Board was assured by the applicant that they would keep an eye on things and control it.

Vice Chair Fricker thought that in the final analysis, the resort could not be expected to be a guarantor to police people parking on the street. He added that the Town could not affirmatively be policing every street. He stated that there was some responsibility by the homeowners to contact the police if people were parking illegally on the street.

Director Garman asked if there were No Parking signs currently on Station Bay Drive. Theresa Cullen stated that there was one sign. Director Garman noted that Station Bay Drive was one of the streets added to the Town's ordinance prohibiting parking on the street. He explained that if there was parking on the street, Ms. Cullen could call the Police Department and they would enforce the no parking regulations.

Chair Blakaitis asked if the Inn considered the special occasions for the crosswalks. Dick McAuliffe stated that they had. Chair Blakaitis asked if they would be addressed. Mr. McAuliffe stated that they were in touch with the Department of Transportation to get their specifications on what they would recommend with regard to the crosswalks.

Chair Blakaitis asked if the new parking areas changed the configuration of the space needed for turnarounds for emergency equipment that the Fire Department would need. Deputy Fire Chief Bill Walker was recognized to speak. Deputy Chief Walker stated that it was doable. He added

that the new parking layout would not be a problem. Chair Blakaitis asked if there was anything in the construction of the third floor to the north Inn that would require additional safety provisions or equipment for the Fire Department. Deputy Chief Walker stated that he would like to see the movement of the connection to the north building out closer to the street and the stand pipe connection in the north stairwell. Chair Blakaitis understood that the Sanderling Inn would be installing sprinklers in the entire building. Deputy Chief Walker stated he was correct. Chair Blakaitis asked if there were other safety concerns from other departments in Town. Deputy Chief Walker stated that there were not.

Member Forlano complimented Town staff on the work they have done on the project in that they were able to get the applicant to compromise in many different ways. He noted that the height issue has been satisfied. He stated that his concern in the beginning was parking and whether there was going to be enough parking and lot coverage. He stated that it seemed that the applicant satisfied the ordinance for both. He stated that as far as the architectural standards, he thought the architect had done a wonderful job in compromising with the roof lines and meeting the height limitations. He stated that the only thing that still concerned him was the safety of the pedestrians, particularly after a wedding reception. He stated that he would like the applicant and Town staff put their heads together to figure out as many safety procedures as possible in addition to a crosswalk. He thought that additional lighting could be installed without violating the dark sky ordinance. He thought that whatever Town staff and the applicant could do to ensure the safety of people would be helpful, especially after weddings. He stated that with regard to parking on the cul-de-sac, he suggested that the Sanderling monitor the parking to make sure no one parks on the private street. He stated that he had no objections to the CUP when it comes time to vote.

Chair Blakaitis thought Member Forlano made a good point about safety. He asked if the Sanderling ever involved police presence to direct traffic at the critical time when an event starts and stops. Dick McAuliffe stated that they used to pay a Duck police officer a few years back and were told that they no longer had to have that service because it was a violation of the Town's police department. Chair Blakaitis clarified that he had the service during the hours that the police officer was working. Mr. McAuliffe stated he was correct. Chair Blakaitis noted that police officers were hired when they are off duty to provide a service such as that. Director Garman agreed, thinking that the Sanderling hired off duty police officers to direct traffic. Dick McAuliffe stated he was correct. Director Garman stated that he did not remember all of the details as to why the Town could no longer allow that. Mr. McAuliffe stated that it was a potential liability issue that the Town had concerns with, so the Sanderling stopped the practice a few years ago. Chair Blakaitis asked if they would continue if they were allowed. Mr. McAuliffe stated he would.

Director Garman noted that staff asked for additional lighting due to a discussion regarding the pavilion, which the applicant did install. He stated that from the Town's standpoint, requiring the applicant to always have someone there would be something that would be hard to guarantee and enforce. Chair Blakaitis asked if the applicant considered using private security. Dick McAuliffe stated that he wasn't sure what the liability would be from the hotel.

Vice Chair Fricker stated that the staff report indicated that staff requested the applicant replace the light at the crosswalk with a pedestrian activated flashing light. He stated that the applicant

agreed to install one. He asked if there was such a light that existed. Dick McAuliffe stated that they were working with the Department of Transportation. He added that they installed a continuously flashing light as they felt it was safer versus having a pedestrian activated flashing light. Vice Chair Fricker understood that the criticism was that the existing light was constantly flashing and drivers tended to ignore it, where if it was a pedestrian activated flashing light, drivers would heed the warning. He asked if the light that Town staff suggested one that was in existence. Director Garman stated that it was. He stated that staff had better information now than a few years ago with the completion of the pedestrian study plan. He stated that the Department of Transportation looked at using the pedestrian activated flashers at various sections of Town, but ultimately they weren't recommended in the Village area due to the number of crosswalks. He pointed out that this would be a good treatment for the Sanderling Inn.

Chair Blakaitis clarified that it would be possible to use the existing crosswalk light and make it flash. Director Garman stated that staff's recommendation was for the rectangular beacons and not the Christmas lights on the sign.

Vice Chair Fricker asked if the conditions that were attached to any positive recommendation simply the ones listed on the first and last paragraph of Page 4. Director Garman stated that they were.

Member Forlano stated that in the pedestrian study that was conducted, one of the concerns was insufficient lighting in the Village. He asked if there was sufficient lighting in the Sanderling area for pedestrians. Member McKeithan asked if the committee went that far to look at lighting. Chair Blakaitis recalled that the committee thought that was a different area and that the Village was more prone to accidents. Director Garman stated that the crosswalk lighting did become a recommendation in the plan with a specific typical section/recommendation that was included in the plan. He stated that he could look to make sure that it was consistent with what the plan recommends. Dick McAuliffe noted that they added additional lighting with the previous Conditional Use Permit approval for their pavilion.

Member Murray asked if staff was acknowledging the 50% value at this point or if it was something that would be addressed in the future with Building Inspector Tate. Director Garman stated that the applicant had to demonstrate that they would be within the 50%. He added that it was not something the Board would review, but something the Building Inspector would need to review as part of the building permit process. Member Murray clarified that the Board would only be approving what Director Garman had provided. Chair Blakaitis stated that the Board would be approving the plan as presented. Member Murray asked if the Board was approving all language that was provided in the staff packet. Director Garman stated that the letter was directed to him, so the applicant would be asking him to acknowledge that they were going to demonstrate that it would be less than 50%. He added that if the Planning Board and Town Council approve the plan, and the applicant cannot demonstrate to the Building Inspector that they were within the 50%, he would not be able to issue the permit.

Member McKeithan thought it was a good proposal and was in agreement with it. He pointed out an error regarding the meeting date on Page 3 of the application. He stated that the architectural intern that developed the 3-D rendering did a great job.

Chair Blakaitis thought it was an excellent proposal and the concessions have been well received. He stated that he could support the application.

Vice Chair Fricker moved that the Planning Board recommend to the Town Council they approve Conditional Use Permit 14-003, subject to the conditions contained in staff's report – in the first paragraph of Page 4 and the last paragraph of Page 4 with respect to a rectangular flashing beacon, if that is feasible, and that the approval be upon the condition that the representations made by the applicant in their response to the Town's technical review comments are complied with to the extent feasible. Chair Blakaitis seconded.

Motion carried 5-0.

Chair Blakaitis called for a short break. The time was 7:23 p.m.

Chair Blakaitis reconvened the meeting.

APPROVAL OF MINUTES

Minutes from the May 14, 2014 Regular Meeting

Member Murray had corrections to Pages 5 and 6.

Chair Blakaitis moved to approve the May 14, 2014 minutes as amended. Member Murray seconded.

Motion carried 5-0.

OTHER BUSINESS

None.

STAFF COMMENTS

Director Garman stated that Treehouse Coffee's CUP was approved at Town Council's June 4, 2014 meeting. He added that the stormwater ordinance was adopted after a public hearing and was now in effect.

BOARD COMMENTS

Vice Chair Fricker stated that during the February Planning Board meeting, there was a matter before the Board regarding a special exception application on behalf of Tom Duggan. He stated that Robert Constanzer appeared and made a presentation. He stated that he and Chair Blakaitis had visited the property that afternoon and some of the representations that Mr. Constanzer made at the Planning Board meeting struck him as contrary. He stated that as a result of that, he had made a comment on record that Mr. Constanzer had no credibility with him. He stated that Mr. Constanzer contacted him asserting that he was an honorable man and did not think his comments were appropriate. He stated that he revisited the property and recognized that the area

where Mr. Constanzer was referring to was a different area than what he and Chair Blakaitis had visited. He stated that he was in error and told Mr. Constanzer that he would correct the error by going on record as making a mistake and extended his apologies to Mr. Constanzer.

ADJOURNMENT

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

The time was 7:29 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman